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CRIMINAL LEGAL POLICIES TOWARD THE RELEASE OF CONPRIANTS DURING THE COVID 19 PANDEMIC IN THE IUS CONSTITUENDUM

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Abstract
Criminal law policy on the release of convicts during the Covid 19 pandemic in the ius constititum , namely carrying out criminal law policies through spending for convicts and children through assimilation . As well as release for convicts and children through integration in the form of parole, parole and leave before being free) . This policy is carried out by applying certain conditions so that it does not maximally reduce the number of inmates in correctional institutions to reduce the risk of spreading Covid-19. Whereas the criminal law policy regarding the release of convicts during the Covid 19 pandemic in the ius constituendum, namely in the Corrections Bill, there is the concept of restorative justice as a means of social integration, but the formulation of this concept has not been clearly implemented, so it is necessary to use the concept of restorative justice at the post-adjudication stage as a means to reduce correctional inmates as well as recovery of victims and their original condition. As well as in the RKUHP implicitly there is a concept of conversion of the sanction system but it has not been clearly formulated, so there is a need for the concept of conversion of the sanction system as an alternative in an effort to reduce correctional inmates to prevent prison overcapacity.

Keywords: Criminal Law Policy, Prisoner Release, Covid-19 Pandemic.

INTRODUCTION

Development of the world in recent times has been in a condition that is quite worrying, namely the result of the emergence of the Corona Virus Disease (Covid-19) pandemic. The existence of the Covid 19 pandemic and the change in the paradigm of punishment has become a momentum in changing the construction of criminal law in a better direction in providing protection to society and every criminal . S eas in the 1945 Constitution of the Republic of Indonesia (hereinafter abbreviated as the 1945 Constitution of the Republic of Indonesia) it is formulated that the state of Indonesia is a state of law so that all policies must be based on law .

So that the government seeks to respond to these conditions by issuing policies and regulations in the form of Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M.Hh-19.Pk.01.04.04/2020 concerning Expulsion and Release of Prisoners and Children through Assimilation and Integration in the Context of Handling and Controlling the Spread of Covid-19 and Regulation of the Minister of Law and Human Rights Number 10 of 2020 concerning the conditions for granting assimilation and integration rights for convicts and children in the context of preventing and controlling the spread of covid 19.

This policy is also based on Law Number 6 of 2018 concerning Health Quarantine, in particular Article 93 already regulates rules for violators of large-scale social restrictions (PSBB). This was then followed up by the government by issuing Government Regulation (PP) Number 21 of 2020 concerning Large-Scale Social Restrictions (PSBB). Even though this criminal law policy has become controversial because it freed thousands of convicts from

prison, the police are still trying to catch the perpetrators of crimes and of course convict and put them in jail.

The assimilation and integration/conditional release program from the Ministry of Law and Human Rights is related to efforts to prevent and control the spread of Covid - 19 in correctional institutions, state prisons, and special development institutions for children (LPKA), because every Indonesian citizen must have his rights protected, including a person who are undergoing a period of punishment which is also called convict. Law Number 12 of 1995 concerning Corrections (State Gazette of the Republic of Indonesia 1995 Number 77, Supplement to the State Gazette of the Republic of Indonesia Number 3614) (hereinafter abbreviated as the Correctional Law) Article (14) expressly regulates the rights of a convict, including to obtain parole (PB).

So thousands of prisoners, especially children, get release according to the specified conditions. As reported by news.detik.com, the government's move to provide assimilation and integration rights in the form of parole for more than 30,000 prisoners through the Ministerial Regulation of the Ministry of Law and Human Rights Number 10 of 2020. The community considers the government's steps to be inappropriate, and think that prisoners are better off in prison. correctional institutions to undergo physical distancing with supervision compared to being outside which has the potential to be exposed to the virus. This policy is considered by some to increase the crime rate because there is no guarantee from the government that those who are given integration and assimilation rights will not repeat their crimes, bearing in mind that people's lives amid this pandemic are increasingly difficult (Balqis, 2020).

This exemption should not only be interpreted as a response to Covid 19 but it is interpreted as part of improving criminal offenders and responding to the failure of imprisonment in realizing the goals of punishment, because prison is a place for people to study crime (academy of Crime) . methamphetamine in the Class II drug penitentiary, Cipinang, East Jakarta .

The essence of providing guidance to convicts is to prepare convicts to return and be accepted in society after realizing mistakes, improving themselves and not repeating crimes again. The essence of the personality development program basically has a close relationship with life and life which includes 5 aspects as stipulated in Law Number 12 of 1995 concerning Corrections, namely:

1. Development of religious awareness.
2. Development of national and state awareness.
3. Development of intellectual abilities.
4. Development of legal awareness
5. Training to integrate oneself with society.

Meanwhile, fostering independence is closely related to efforts to restore the livelihood relations of convicts and workers as stipulated in Law Number 12 of 1995 concerning Corrections, which includes:

1. Skills to support independent businesses.
2. Skills to support small businesses.
3. Skills developed according to each talent. To support agricultural/plantation and technology industry businesses.

However, there are new thoughts regarding the function of punishment which is no longer just imprisonment, but the function of punishment is an effort to rehabilitate and social reintegrate law violators which has created a system of treatment which has been known since more than forty-six years ago and is called the correctional system.

The correctional system is a series of law enforcement that aims to make prisoners aware of their mistakes, improve themselves, and not repeat crimes so that they can be

accepted again by society, can play an active role in development, and can live normally to become good and responsible citizens.

The phenomenon of releasing convicts due to the Covid-19 pandemic can also be interpreted as an effort to find other alternatives to punishment and efforts to overcome overcapacity of prisons in realizing the goals of current punishment, so that it is alleged that there is a criminal law policy regarding the release of prisoners during the Covid-19 pandemic based on current and future national law. will come as part of a paradigm shift in sentencing. So it is necessary to conduct a deeper study of the prisoner release policy.

Achmad Ali argued that there are 3 legal objectives, namely (1) From the point of view of positive normative or dogmatic juridical science, the objectives of law are emphasized in terms of legal certainty; (2) From the point of view of legal philosophy, the purpose of law is emphasized on the aspect of justice; (3) From the point of view of the sociology of law, the purpose of law is emphasized in terms of expediency. Aristotle distinguishes justice into types of distributive justice and corrective justice. Distributive justice according to Aristotle focuses on distribution, honor, wealth, and other goods that can be obtained equally in society. Leaving aside the mathematical "proof", it is clear that what Aristotle had in mind was the distribution of wealth and other valuables based on the prevailing values among citizens. A fair distribution may be a distribution that is in accordance with its good value, namely its value for society (Joachim, 2004).

As a modern teaching that accepts justice, expediency and fairness are the goals of law, but with certain priorities. At first, Gustav Radbruch's standard priority teachings were felt to be far more advanced and wise, than the extreme teachings, namely ethical, utilistic, and normative-dogmatic teachings. However, the increasing complexity of human life in the modern era, the standardized choice of priorities sometimes conflicts with legal requirements in certain cases . The word legel comes from the word lege which means "law" or legal material that has been specifically determined and formed to become rules that have been ascertained or positive as legal rules that apply formally.

Reform of criminal law can be said as an update on the problem of prohibited acts or acts that can be punished; perpetrator; and the criminal sanctions it threatens (Djoko, 1983). From this, an illustration is obtained that in the term "Policy" the meaning of "Wisdom" will be found. The meaning of policy has a close relationship with wisdom, and policy contains wisdom. The meaning of criminal politics, criminal law experts have various opinions (Barda, 2008). Marc Ancel formulates criminal politics as the rational organization of the control of crime by society (the rational efforts of society in tackling crime).

From the description of the background, this research is focused criminal law policy regarding the release of convicts during the covid 19 pandemic in the ius constituendum. This research aims to examine and analyze criminal law policy regarding the release of convicts during the covid 19 pandemic in the ius constituendum.

METHOD RESEARCH

The approach used in this study is a philosophical approach, historical approach, conceptual approach, statutory approach, with the type of research namely normative legal research which examines values, principles, norms with legal dogmatic studies related to variables variables along with their indicators from criminal law policies regarding the release of convicts during the Covid 19 pandemic in Indonesia.

RESULT AND DISCUSSION

The idea of correctional as stated in Law Number 12 of 1995 concerning Corrections is a manifestation of a shift in the function of punishment which is no longer just a deterrent, but also an effort to rehabilitate and social reintegrate prisoners. Penitentiary is directed at returning criminals as good citizens while at the same time protecting society against the possibility of repeating criminal acts by Prison Inmates.

Prisoners have the right to receive spiritual and physical development and their rights are guaranteed to carry out their worship, relate to outsiders, both family and other parties, obtain information both through print and electronic media, obtain proper education and so on. However, the Correctional Law in the implementation of correctional facilities has developed far. Prisons are in the public spotlight, because of their overcapacity, the large number of cases of escaped convicts, shootings that have resulted in the death of several inmates, riots and rampant drug trafficking in prison.

Law has not comprehensively regulated the development of legal requirements , has not optimally supported the realization of guarantees for the protection of rights , there is overlap and disharmony between norms. These various weaknesses will certainly affect the guarantee of legal certainty for all parties related to correctional facilities. So that the Correctional Law is renewed to answer legal needs.

Criminal law policies to address the problems faced by the formulation of a new Penitentiary Bill, as in the draft Bill on Corrections to amend and add several important points for the improvement of the current Penitentiary Law in accordance with current developments in punishment.

Renewal of the criminal law through criminal law policies has a philosophical meaning that Corrections as a sub The Integrated Criminal Justice System must provide a significant role in law enforcement as the last part of the criminal justice system . So that the implementation of the role of correctional institutions can be integrated with the goals to be achieved by the state in the Preamble of the 1945 Constitution of the Republic of Indonesia. Corrections must focus on protecting human rights, including material or civil rights. As well as reintegrating correctional inmates in a positive relationship with the community which can be achieved through the best treatment of correctional inmates including service, coaching and mentoring activities that are carried out systematically and continuously while still prioritizing respect for the rights of inmates . including property rights. As well as penitentiary must provide a wide space for the community to participate / take part in the implementation of correctional .

The Penitentiary Bill was renewed as part of the demands for legal developments in society that require protection for the community but also as an effort to improve correctional inmates who are integrated into society as individuals who were as before without any deviant behavior. Sociological reasons as a basis for consideration are essential in legal policy, especially criminal law policy.

implementation of correctional tasks has experienced rapid development. The role of the correctional center, which was originally limited to the adjudication phase, has expanded to reach the pre-adjudication and post-adjudication phases , and is faced with problems of overcapacity which of course impacts various aspects of life in prisons or detention centers which tend to be dysfunctional towards the achievement of correctional goals. In addition to the problem of overcapacity, the penitentiary is also in the public spotlight because of the rampant cases of prison inmates and clients who have run away, shootings that have resulted in the deaths of several correctional inmates, riots and rampant drug trafficking in prisons , and the existence of prisons as an academy of crime . As well as the existence of the Covid-19 pandemic as a contemporary emergency problem. All of these problems indicate weak prison governance, such as inadequate capacity, facilities and infrastructure for correctional officers and weak intelligence functions.

The Penitentiary Bill must become the focus of the government to immediately form new correctional arrangements that can accommodate various conditions and legal needs that develop in society. The formation of this regulation was also carried out as an effort to align, harmonize and harmonize between the legal basis for the implementation of correctional duties and other legal rules including ideas related to the conversion of the sanction system.

The basic philosophical, sociological and juridical considerations in the Penitentiary Bill are a strong foundation in formulating new norms in the contents of the Correctional Bill. So that the new content in the Correctional Bill includes (Correctional Bill Agreed, 2022):

1. Strengthening the position of correctional institutions in an integrated criminal justice system that organizes law enforcement in the field of treatment of detainees, children and fostered families.
2. The expansion of the scope of the goal of the correctional system is not only to improve the quality of convicts and assisted children, but also to guarantee the protection of the rights of prisoners and children.
3. The renewal of the principles in the implementation of the penitentiary system is based on the principles of protection, non-discrimination, humanity, mutual cooperation, independence, proportionality, loss of independence as the only suffering, and professionalism.
4. Arrangements regarding correctional functions which include services, coaching, social guidance, treatment, security, and observation.
5. Enforcement of the rights and obligations of detainees, children and inmates.
6. Arrangements regarding the implementation and provision of community guidance development service programs, as well as the implementation of maintenance, security, and observation.
7. Arrangements regarding the support of intelligence activities in the implementation of security and observation functions.
8. Arrangements regarding the code of ethics and code of conduct of correctional institutions as well as guarantees for the protection of the rights of correctional officers to carry out security protection and legal assistance in carrying out their duties and functions.
9. Arrangements regarding the obligation to provide facilities and infrastructure in the administration of the correctional system, including the correctional information technology system.
10. Arrangements regarding correctional function supervisors.
11. Cooperation and participation of the community carried out in the context of administering the correctional system.

Based on the existing studies, the current thinking about imprisonment and sentencing must be the final step. Therefore, there needs to be a mechanism that can reduce punishment in institutions, provide discretion, impose alternative punishments, and carry out restorative justice , as well as efforts to reduce penitentiary inmates through the conversion of the sanction system . Thus, imprisonment does not make the prison full . Therefore, the judicial process and sentencing must find a new formula that is not only in the current Correctional Bill but also there needs to be a new thought to add to the material content of the Penitentiary Bill before it is enacted. So another thought that will be analyzed and studied in this study includes restorative justice.

Restorative Justice f which will be applied in the criminal law enforcement process, is basically a concept that is abstracted from the values of the living law that live in the midst of a cross-cultural society. The results of the research conducted by Braithwaite concluded that the concept of restorative justice already exists in cross-cultural cultural values, so that even this concept of restorative justice can be said to be an old concept or a primitive concept in problem solving, even before the application of the concept of restitutive justice.

The concept of Restorative Justice has basically been practiced by Indonesian indigenous peoples, such as in Papua, Bali, Toraja, Minangkabau, and other traditional communities that still hold strong culture. This form of dispute resolution is resolved within the indigenous community internally without involving state apparatus. The measure of justice is not based on retributive justice in the form of revenge (an eye for an eye) or imprisonment, but based on conviction and forgiveness (restorative justice). Even though general criminal acts handled by the community itself are contrary to positive law, it is proven that this mechanism has succeeded in maintaining harmony in society. The involvement of state law enforcement officials is often seen as complicating and exacerbating the problem (Zulfa, 2011).

Restorative justice can be an important tool to reduce the problems faced by correctional institutions today, from overcapacity, academy of crime, reintegration of inmates and other problems. The concept of restorative justice can not only be carried out at the pre-adjudication or adjudication stage, but can also be used at the post-adjudication stage. So that there is still a chance for a peace process between the inmates and the victims and/or their families.

Because at present, there is a shift in the paradigm of punishment from a retributive school that focuses on retaliation to a restorative direction (National Legal Development Agency, 2017). In a theoretical context, the paradigm shift is meant is:

Retributive e Justice	***Restitutive Justice***	***restorative justice***
a. emphasizing justice over retribution b. child in position as object c. unbalanced settlement of legal problems	a. emphasizes fairness b. compensation make a loss	a. emphasizing fairness on repair/recovery circumstances b. oriented to victim c. giving the perpetrator an opportunity to express his regrets to the victim and at the same time take responsibility answer. d. provide opportunities for perpetrators and victims to meet to reduce hostility and hatred. e. restore balance within Public f. involve community members in the effort recovery.

This paradigm shift is actually not a new principle. The concept of restorative justice is a form of social reintegration as it is known as the correctional system. Corrections make social reintegration a goal to be achieved. Therefore, Restorative Justice is one of the embodiments of the purpose of punishment to achieve the goal of enforcing criminal law. According to Tony F. Marshall, restorative justice is a process in which all parties involved in a particular crime jointly solve the problem of how to deal with the consequences in the future. The main purpose of restorative justice itself is to provide recovery for the improvement of the impact caused by a crime (Waluyo, 2016). So that restorative justice can be a means to carry out social reintegration as an alternative.

Social reintegration that wants to be realized is the integration of the relationship between the convict and the community. Therefore, the development of convicts is carried out in an integrated manner between the coaches, those being coached, and the community. All of these elements have positions and roles that mutually support the achievement of

correctional goals. However, there is a need for community involvement, especially victims and/or their families.

The goal of social reintegration in the implementation of prison sentences is to provide equal attention between society and convicts. Unlawful behavior is seen as a symptom of a rift in the relationship between lawbreakers and society. Therefore, coaching for convicts must be aimed at repairing the rift in this relationship. Prisoners must get the widest possible opportunity to socialize with the community and on the other hand, the community must actively participate and provide support in the development of prisoners as a form of social responsibility . Therefore, victims and/or their families together with inmates and/or their families become important subjects in carrying out social reintegration.

Settlement of cases through restorative justice has been implemented with the issuance of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. In the provisions of Article 1 point (6) it is stated that restorative justice is the settlement of criminal cases involving perpetrators, victims, families of perpetrators/victims, and other related parties to jointly seek a fair solution by emphasizing restoration to its original state, and not revenge . Settlement of cases in this paradigm is up to the post-adjudication process.

According to Clement Bartolas, to keep lawbreakers in society is one thing that is very important because basically imprisonment can lead to dehumanization (Bartollas, 1985). So that social reintegration is based on the premise that crime is only a symptom of disorganization in society. Communities should take responsibility in efforts to foster prisoners. Implementation of guidance as much as possible to provide a broad space for the community and prisoners to interact with each other. Thus, it is expected that convicts can internalize the values and norms that apply in society. In addition, convicts can be avoided from latent dangers in prisons, such as dehumanization.

The National Advisory Commission on Criminal Justice Standards and Goals provides support for the social reintegration model. The Commission explained that it is very important to keep lawbreakers in society because in essence prisons or correctional institutions can result in dehumanization.

> "Prison tends to dehumanize people... Their weaknesses are made worse, and their capacity for responsibility and self-government is eroded by regimentation. Add to these facts the physical and mental conditions ignore the rights of offenders, and the riots of the past decade are hardly to be wondered at. Safety for society may be achieved for a limited time if offenders are kept out of circulation, but no real public protection is provided if confinement serves mainly to prepare men for more, and more skilled criminality."

The reintegration approach requires that former law offenders receive more services and long-term guidance as much as possible help eliminate the stigma they have received in order to help them socialize with society and not just survive. However, at the stage of social integration, there is also a need for victim recovery, which at the pre-adjudication and adjudication stages did not achieve victim recovery. So that at this stage victims should also still be an important focus besides correctional inmates.

The involvement of crime victims and their families in the social reintegration process is very strategic in the process of enabling inmates to integrate with society. Reintegration places more emphasis on individual and societal interests at the same level. Compliance with the law is seen as a necessity for individual actors and society. Society must provide opportunities for prisoners to re-establish law-abiding behavior and individuals themselves must learn to take advantage of these opportunities. Therefore, it can be explained that reintegration is an intervention into the lives of convicts and society with the intention of

providing positive choices for unlawful behavior. The approach to instilling these positive values can be done for prisoners, both when the prisoners are in the community or while in prison. In the reintegration model, society has an important role in the life of convicts. Therefore, it is necessary to explain as well as strengthen the role that will actually be played by the community both in the process of coaching and their integration into society.

In principle, restorative justice is an effort to divert from the criminal justice process to settlement through penal mediation, but it cannot be applied to all types or levels of crime, but in minor crimes, restorative justice can be applied (Elvia, 2019). In the process of social integration, the process of restoring the situation through restorative justice, correctional institutions act as facilitators in the implementation of peaceful settlements between inmates and victims and/or their families by means of peace based on the values of togetherness, kinship, deliberation, and other moral values.

Strong ties with the community, especially victims and/or victims his family is very influential on the success of training prisoners, with the premise that when they no longer have strong ties with the community, do not have a steady job, the relationship with their family is broken, and they no longer have spiritual guidance then he free for do action criminal. By Therefore, in this model various programs are developed that facilitate efforts to approach the community outside the institution.

Programs that facilitate closeness between the community and prisoners can be made on the basis of this 4 (four) roles of the community in the process of convicting and coaching convicts, which was put forward by O'Leary (1969) in his writing " Some Directions for Citizen Involvement in Corrections", among others as:

1. The correctional volunteers , namely people who directly work for para prisoner.
2. The social persuader, namely people who have influence in the social system who wish to invite other people to give support to jail.
3. The gate-keepers of opportunities, prison officials have access to important political, economic, social and cultural institutions. Therefore, this person will be the gate keeper in entering institutions.
4. The intimates, can come from convicts or from the environment who really know the convict's condition.

With reference to this approach, the role of a correctional volunteer has actually been carried out quite well in correctional institutions, especially in personality development programs. By bringing criminals closer to people's lives, it is hoped that the rule of law and norms that apply in society can be internalized within the perpetrators of crimes. In order for this internalization to be achieved, Treatment options must be available, for example in the form of education, employment, recreation and other activities needed to prevent the formation of criminal behavior. Thus, criminals have the opportunity to choose the form of treatment needed which can be used as a means to integrate with society.

Clemens Bartolas stated that there are 3 (three) basic assumptions for the need for a reintegration model, namely first, that problems involving criminals must be solved together with the community where they come from. Second, the community is responsible for the problems that occur regarding the perpetrators of crime and community responsibility can be shown by helping the lawbreakers to comply with the laws that have been set. Therefore, society must provide opportunities for criminals to develop law-abiding behavior and criminals must learn to take advantage of this opportunity. Third, that contact with the community aims to achieve the goal of reintegration itself. Perpetrators of crime must be brought closer to normal roles as members of society, family members, and worker.

The reintegration model adheres to the notion that every action taken must be able to provide assistance during the transitional period when lawbreakers return to society to become law-abiding and productive members of society. To get that result optimally, an ideal

reintegration model must contain four stages, namely prison-based rehabilitation, transitional service , community after care , and postsupervision certification as "normal " (final development until deemed able to socialize and get their rights as citizens).

In addition to the concept of restorative justice as an alternative to reduce the number of prisoners and reduce the number of correctional inmates, another important and solutive concept is to convert the sanction system.

Convert is a homonym because its meanings have the same spelling and pronunciation but different meanings. Conversion has a meaning in the class of nouns or nouns so that conversion can state the name of a person, place, or all things and everything that is noun . Conversion can be interpreted; a). Changes from one knowledge system to another; b). Change of ownership of an object, land, and so on; c). Change from one form (form, etc.) to another (form, etc.). So according to the Big Indonesian Dictionary (KBBI), the meaning of the word conversion is a change from one knowledge system to another. Another meaning of conversion is a change in ownership of an object, land, etc. So the intended conversion is a change from one system to another.

While the sanction system consists of two words, namely the word system and the word sanction. Etymologically, the word system comes from the Greek "systema" which means a whole consisting of various parts. According to Indrajit, the system implies a collection of components that have elements of interrelationship with one another (Indrajit, 2001).

The same opinion is implicitly stated in Emery and Trist's definitions that a system is a group of interrelated elements. A (ordinary) system is considered to be a set of interrelated subsets that form a single whole. Almost all theorists refer to one main requirement of structure. The system is a whole, has elements and those elements have relationships that form a structure (Salman & Susanto, 2004).

The system has legal rules or norms for these elements, all of which relate to the source and validity of higher rules. These relationships form a pyramidal and hierarchical structure of classes with a basic set of norms at the top.

While the meaning of sanctions in the Indonesian dictionary is responsibility (actions, punishments, etc.) to force people to comply with agreements or comply with statutory provisions (statutes, associations and so on), it can also be interpreted as actions (regarding the economy and so on). as a punishment to a country, as well as other meanings in the form of compensation consisting of negative rewards, namely in the form of burdens or suffering determined by law and positive rewards, namely in the form of gifts or gifts determined by law (Rahawarin, 2015).

According to Lawrence M. Friedman, sanctions are ways of establishing a norm or regulation. While legal sanctions are sanctions outlined or authorized by law. Every legal regulation contains or implies a statement regarding legal consequences. These consequences are sanctions, promises or threats.

This definition indicates that the intended sanction is related to punishment, action or reward, as well as sanctions in criminal law which form a separate system or constitute one of the sub-systems of criminal law. So the system of sanctions in criminal law is referred to as trisasi (three systems of sanctions), namely criminal sanctions, action sanctions and also reward sanctions .

TriSIS consists of tri which means three and rest means the system of sanctions, so that TriSISa is a system of three sanctions in the form of criminal sanctions, action sanctions and reward sanctions as the propositions of the expected criminal law sanction system with the supporting concepts of each proposition, namely sanctions punishment consisting of main punishment and complementary punishment, action sanction consisting of remedial action and protective action, reward sanction consisting of abolition reward and reduction reward.

The three systems of sanctions (triSIS) in criminal law are aimed at benefiting humanity, namely being able to protect religion, soul, mind, lineage and property.

Main punishments from the triSIS theory are capital punishment, amputation, fines, flogging, imprisonment, imprisonment, confinement, supervision, and social work. Meanwhile, complementary punishment is in the form of additional punishment in national law which principally acts as a complement . Action sanctions in the form of corrective actions and protective actions. Corrective action is aimed at the internal state of the perpetrator of the crime in the form of improving his soul, mind and emotions. Meanwhile, protective measures in the form of restoring the balance are borne by the perpetrator and/or his family and can also be applied to corporations to restore the balance that has occurred. Sanctions for compensation in the form of compensation for abolition and compensation for reductions. The reward for the abolition is in the form of the President's pardon for the existence of the state, government and society. Meanwhile, the compensation for reduction is in the form of absolute forgiveness which is the right of the victim/his heirs and relative forgiveness which is the right of the judge/government in giving forgiveness .

Criminal Sanctions Criminal law in the form of main punishment and complementary punishment. The main punishment is death penalty which can only be applied to crimes against life and the existence of the state as the maximum and main sanction, amputation as the maximum and main crime for crimes against assets and intermediate punishment for crimes against the existence of the state and property, fines as the maximum punishment and main for crimes against the body as well as intermediate punishment for all crimes against life, the existence of the state, property and body, fines as the maximum and main punishment for crimes against decency, honor and reason as well as being an intermediate punishment for crimes against life, existence of the state , property, body, as in adultery (a special maximum of 100 flags), perjury (a special maximum of 80 flags), drinking alcohol (a special maximum of 40 flags) , imprisonment as the maximum and main crime for crimes against public order and all crimes due to negligence, the maximum special sentence is 3 years and the minimum k especially 50 days. As well as the intermediate punishment for crimes against life, the existence of the state, property, body, decency, honor, reason, public order and crimes due to negligence, then including tazir crimes, namely cover-ups for crimes against the existence of the state which are committed because they are motivated by intentions that deserve respect or based on Shari'a, imprisonment that can be imposed on minor offenses/crimes, length of confinement of at least 1 day and a maximum of 50 days, criminal supervision for which the term of this crime is a special maximum of 3 years and a special minimum of 50 days, and social work imposed a maximum of 350 hours for defendants aged 18 years and over and 175 hours for defendants under 18 years of age. The shortest time is 7 hours and is not commercialized. Meanwhile, complementary punishment is permissible in principle as long as it does not exceed the provisions of the main sentence (not at the same time as the main penalty) .

From the theory of trisisa, the conversion of the sanction system is a method based on the rule of law to replace one type of sub-system of criminal law sanctions with another type of sub-system of criminal criminal law sanctions or replace one type of criminal law sanction with another type of criminal law sanction. The replacement must be based on legal regulations that have regulated the criminal law sanction system and the sanction system conversion system.

Regulations regarding the criminal law sanction system need to be reformed in this regard in order to accommodate the sanction system as stated in the criminal law theory, so that the reward sanction sub-system that does not yet exist in national law can be explicitly accommodated, as well as several types of criminal sanctions that have not been formulated

in general in system of national legal sanctions such as amputation and flogging/lashing, as well as fines that have been adjusted to the rupiah exchange rate.

So that the conversion of the sanction system will be more profitable for prisoners, to overcome prison overcapacity, the effectiveness and efficiency of punishment, and to overcome the spread of Covid-19 or other viruses which have also become deadly pandemics. An example of the conversion of a sanction system from one sanction sub-system to another sanction sub-system is the change from sub-criminal sanctions to sub-action sanctions, or from sub-action sanctions to reward sub-sanctions, this conversion system is from the heaviest to the lighter. Likewise, changes in the types of criminal sanctions in the sub-system of criminal sanctions, for example from death penalty to fines, or imprisonment to caning, or imprisonment to fines. The conversion process must be more profitable for the assisted members of the community and fulfill the victim's sense of justice.

Therefore, the conversion process must be regulated and the conversion system formulated in a systematic and fair manner. Conversion is done for two reasons; (1) based on the rules of the conversion system which is carried out directly by the authorized official; (2) based on the results of restorative justice between prisoners and/or families with crime victims and/or their families facilitated by authorized officials.

Based on the rules of the conversion system that is carried out directly by the authorized official, it can be carried out if the type of criminal sanction of caning has been accommodated as one of the types of punishment in the national criminal sanction system. And it has been formulated as a type of sanction that can be converted or a type of sanction that can convert other types of sanctions.

As we understand, the purpose of issuing the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M.Hh-19.Pk.01.04.04/2020 concerning the Expulsion and Release of Convicts and Children through Assimilation and Integration in the Context of Handling and Controlling the Spread of Covid19 . However, the Ministry of Law and Human Rights is only limited to those who have met the requirements for the assimilation and integration processes. So it is necessary to have other ways that are more effective and fair in the process of removing prisoners who are inmates who are fairly acceptable to the community.

In the trisis terms, the type of criminal sanction of caning/ wounding is the maximum and main punishment for crimes against decency, honor and reason as well as being an intermediate punishment for crimes against life, existence of the state, property, body, such as adultery (maximum specifically 100 lashes), perjury (special maximum 80 lashes), drinking liquor (special maximum 40 lashes) . So this flogging sentence can convert prison sentences related to crimes related to the crime in question.

So a prison sentence for a certain time of at least 1 day and a maximum of 15 years, a weight of 20 years can be converted to a flogging sentence for a minimum of 1 lashing and a maximum of 100 lashes. Of course, prison inmates who are told to choose imprisonment for several years by being replaced with several whips, even though they are only briefly sick, will most likely only choose caning.

The rationale, conceptual and theoretical of flogging/lash punishment as in the theory of criminal law triSIS from (Rahawarin, 2017) in his dissertation entitled " Absorption of the Islamic Criminal Law Sanction System in the Renewal of the National Criminal Law Sanction System " offers the concept of Three Criminal Law Penalty Systems (Trisisa) as a recommendation in efforts to renew the national criminal law. Then Popularized in Legal Pluralism : Journal of Law Science , Volume 7 Number 2, July 2017.

Flogging was not included in the Criminal Code of colonial heritage, in laws and regulations other than the Criminal Code, flogging has found a place in national law, although it only applies specifically to Nangroe Aceh Darussalam.

The application of Islamic law in the Province of Nangroe Aceh Darussalam is contained in law (UU) number 18 of 2001 concerning Special Autonomy for the Province of the Special Region of Aceh as the Province of Nanggroe Aceh Darussalam (NAD). One of its specialties is the establishment of the Syar'iyah Court of the Province of Nanggroe Aceh Darussalam as contained in Article 25 that:

1. Islamic Sharia courts in the Province of Nanggroe Aceh Darussalam as part of the national justice system are conducted by the Syar'iyah Court which is free from the influence of any party.
2. The said authority of the Syar'iyah Court is based on Islamic law in the national legal system, which is further regulated by the Qanun of the Province of Nanggroe Aceh Darussalam.
3. This authority only applies to adherents of Islam.

Based on the NAD law, Regional Regulation (Perda) Number 5 of 2000 was formed concerning the Implementation of Islamic Shari'at, Article 5 paragraph 2 states that the implementation of Islamic Shari'ah includes: a. aqidah; b. worship; c. mu'amalah; d. morals; e. Islamic education and da'wah/ amar ma'ruf nahi munkar ; f. baitul mal; g. social; h. syi'ar Islam; i. defense of Islam; j. qadha ; k. jinayat ; l. mukahat ; m. roses.

In connection with the implementation of Islamic law in the field of jinayat , several qanuns have been formed which accommodate Islamic criminal acts and their sanctions. This is contained in the Qanun of the Province of Nanggroe Aceh Darussalam number 10 of 2002 concerning Islamic Sharia Courts. The judiciary has the duties and authorities as contained in Article 49, namely " The Syar'iyah Court has the duty and authority to examine, decide and settle cases at the first level, in the fields of ahwal al-syakhshiyah, mu'amalah and jinayah . " Related to the material law of jinayah sourced from or in accordance with Islamic Sharia which will be regulated by qanun (Article 53).

The criminal penalty for flogging is contained in several qanuns that regulate criminal provisions/uqubat. Qanun of Nanggroe Aceh Darussalam Province number 11 of 2002 concerning Implementation of Islamic Sharia in the Field of Aqidah, Worship and Islamic Symbolism. This Qanun also stipulates criminal provisions, namely those who spread heretical beliefs or sects, shall be punished with a ta'zir sentence in the form of imprisonment for a maximum of 2 (two) years or caning in public for a maximum of 12 (twelve) times , for those who does not perform Friday prayers three times in a row without a syar'i excuse, then the penalty shall be ta'zir in the form of imprisonment for a maximum of 6 (six) months or caning in public for a maximum of 3 (three) times , for those who providing facilities/opportunities to Muslims who do not have an old syar'i not to fast during the month of Ramadan shall be punished with a ta'zir penalty in the form of imprisonment for a maximum of 1 (one) year or a fine of up to 3 (three) million rupiahs or caning in in public for a maximum of 6 (six) times and has his business license revoked , for those who eat or drink in a place/in public during the day in the month of Ramadan shall be punished with a ta'zir penalty in the form of a maximum prison sentence ma 4 (four) months or caning in public a maximum of 2 (two) times . Whereas Article 23 threatens ta'zir punishment after going through a process of warning and guidance by the Wilayatul Hisbah for those who do not wear Islamic clothing as referred to in Article 13 paragraph (1).

Qanun of Nanggroe Aceh Darussalam Province No. 12 of 2003 concerning Khamar Drinks and the like. This Qanun mentions a criminal provision known as the 'uqubat provision, which contains a penalty of flogging or lashing for anyone who consumes alcoholic drinks and the like is threatened with 'uqubat hudud 40 (forty) lashes . If the violation is repeated again , then the 'uqubat' sanction can be added 1/3 (one third) of the maximum 'uqubat .

Qanun of Nanggroe Aceh Darussalam Province No. 13 of 2003 concerning Maisir (gambling). This Qanun stipulates the provisions of 'uqubat in the form of flogging for anyone who commits an act of maisir, then is threatened with 'uqubat caning in public for a maximum of 12 (twelve) times and a minimum of 6 (six) times . If the violation is repeated again , then sanctions The 'uqubat can be added 1/3 (one third) of the maximum 'uqubat.

Qanun of Nanggroe Aceh Darussalam Province No. 14 of 2003 concerning Khalwat (Mesum). This Qanun makes it clear that Khalwat/Mesum is unlawful, so that the provisions of 'uqubat in the form of flogging can be applied to anyone who violates it with the threat of 'uqubat ta'zir in the form of being whipped for a maximum of 9 (nine) times, a minimum of 3 (three) times and/or or a maximum fine of Rp. 10,000,000.- (ten million rupiah), a minimum of Rp. 2,500,000.- (two million five hundred thousand rupiah) . If the violation is repeated again, the sanctions The maximum uqubat can be added by 1/3 (one third) of the maximum uqubat Qanun of Nanggroe Aceh Darussalam Province No. 7 of 2004 concerning Management of Zakat. This Qanun regulates the provisions of 'uqubat in the form of caning against anyone who makes a fake letter or falsifies a baitul mal agency letter that can issue a right, an obligation or debt relief, or that can be used as a description of an action, with the intention of using or ordering someone to other use it as if the letter is genuine and not falsified, punished for falsification of the letter with uqubat ta'zir in the form of whipping a maximum of three times, at least once.

Penalties are also imposed on anyone who deliberately uses a forged or forged letter as if the letter was genuine and not forged, which could cause harm to the Baitul Mal Agency or Muzakki, mustahiq or other interests, punished for using a forged or forged letter by uqubat ta'zir in the form of whipping a maximum of three times, at least once and compensation for losses due to these actions.

Against anyone who commits, participates in or helps commit embezzlement of zakat or other religious assets that should be handed over to the Baitul Mal, punished for embezzlement, with uqubat ta'zir in the form of lashing three times, at least once and a maximum fine of two times, at least once of the embezzled value of zakat or other assets . Likewise, Baitul Mal officials who distribute zakat to people who are not entitled to it, are punished for committing a finger of misappropriation of zakat management with uqubat ta'zir in the form of whipping a maximum of four times and a minimum of two times.

The criminal sanction system applied to these Qanuns is whipping, fines, imprisonment, confinement or administrative sanctions by revoking or canceling the business license that has been granted. Caning as contained in the Qanun is a type of Islamic criminal sanction that has not been accommodated in the Criminal Code or the latest RKUHPid, in addition to other types of Islamic criminal sanctions.

The implementation of caning as applied in Nanggroe Aceh Darussalam, seen from several aspects, such as the principle of costs and results as well as the negative impact that will be caused by caning is certainly not like the imposition of imprisonment which has been "prima donated" so far, where there are various kinds of irregularities.

Criminal sanctions for flogging in Islamic law are contained in the crime of adultery, the crime of qazaf and ¬the crime of drinking liquor (khamr). Criminal sanctions for flogging are found in the crime of adultery, false accusations of adultery, drinking alcohol as the main criminal sanctions which are categorized as hudud crimes . However, this criminal sanction is not contained in the Criminal Code, but has been enforced in Nangro Aceh Darussalam in the form of a qanun as a consequence of implementing Islamic law. Whereas in the RKUHPid, flogging has not been accommodated as one of the main punishments.

If we compare the imprisonment applied to most criminal sanctions in Indonesia, it can be said that caning is more efficient and less costly. Caning is more impressed as a criminal

sanction than imprisonment, especially for recidivists. Therefore, it is necessary to consider the application of caning to several criminal acts. In addition to not taking up time for the convict to provide for himself and his family, it also has a higher risk/negative impact when faced with human rights violations by the state. Human rights violations by the state can be seen in the actions of the state depriving oneself of freedom and independence to travel and find work freely. Caning can deter perpetrators compared to imprisonment which provides food and vocational education facilities. Whereas the provision of food, education and skills needs should be given to the poor and neglected people without having to wait for them to be subject to criminal sanctions for committing crimes/crimes.

According to (Qardhawi, 1997) that there is no doubt that protecting millions of people from various dangers of moral disease by hurting one person or two people severely is better than indulging criminals by plunging the whole community into immeasurable danger, even being inherited by generations will come when they will not sin.

In contrast to the spirit of the Indonesian state constitution which has emphasized that the rights of the general public are more important than individual rights, with the assumption that the rights of the community are automatically protected, individual rights are also protected. This assertiveness can be seen in the constitution which defines one of the goals of the state as protecting the entire Indonesian nation. So the basic rights of every Indonesian human being are protected in the constitution on condition that they do not violate Pancasila, especially Belief in One Almighty God.

According to (Packer, 1968), the utilitarian view looks at punishment in terms of its benefits or usefulness, where what is seen is the situation or condition that the sentence is intended to produce. On the one hand, punishment is intended to improve the attitude or behavior of the convict and on the other hand, punishment is also intended to prevent other people from possibly committing similar acts. This view is said to be forward-looking and at the same time has deterrence properties.

The punishment of flogging is not recognized in national criminal law, except only in the form of regional regulations which are spelled out in several qanuns enacted in the province of Nangro Aceh Darussalam as specific policies. Likewise in the RKUHPid, flogging has not become an interesting topic to be discussed, let alone to be fought for in the RKUHPid.

So the punishment of flogging/lash can be an alternative system for converting sanctions against imprisonment for a certain time which requires a long time and costs a lot. Flogging can provide effectiveness and justice to reduce the excess capacity of the number of correctional inmates as well as a way to expel most of the inmates due to the COVID-19 pandemic or other pandemics that may occur in the future.

In addition to flogging as a substitute punishment in the form of conversion, fines in the perspective of the triSIS theory can also be an alternative as a substitute punishment in the conversion system of the criminal law sanction system. Criminal fines as in the theory of criminal law triSIS from Ahmad Rifai Rahawarin Then Popularized in Legal Pluralism : Journal of Law Science , Volume 7 Number 2, July 2017 . Fines are the maximum and main punishment for crimes against bodies as well as intermediate crimes for all crimes against life, existence of the state, property and bodies.

A fine is a criminal sanction in the form of having to pay in the form of money that is intentionally imposed or imposed on someone who has been proven guilty of committing a crime. A fine is a payment of a person's assets or property that is put into the state treasury. therefore, this understanding is not a form of compensation that must be given to those who are harmed as a criminal threat in the applicable criminal law.

Fines are a type of crime in the criminal system in general. If the object of imprisonment and confinement is the independence of the person and the object of the death

penalty is the soul of the person, then the object of the fine is the property of the convict. Fines are not intended solely for economic purposes, for example to simply increase state financial income, but must be linked to criminal purposes. The criminal fine aims to burden someone who violates the provisions of the Criminal Code by paying a certain amount of money or assets so that the maker himself feels a loss so that order in society is restored.

The fourth main punishment in Article 10 of the Criminal Code is a fine. The Criminal Code does not specify a general maximum for the amount of fines to be paid, what is there is a general minimum which was originally 25 cents, which was later amended by law number 18 (Perpu) of 1960 to fifteen (15) times.

Whereas Article 30 of the Criminal Code regulates the pattern of fines as follows:

1. Whereas the amount of fines of at least three rupiahs and seventy five cents is the general minimum requirement.
2. If a fine is imposed, and the fine is not paid, then it is replaced by imprisonment.
3. The duration of the alternative imprisonment is at least one day and a maximum of six months.
4. In the judge's decision, the length of alternative imprisonment is determined by the provisions if the fine is seven rupiah fifty cents or less, it is counted as one day. If it is more than seven rupiahs fifty cents, every seven rupiahs fifty cents is calculated for one day at most, so is the remainder which is not enough seven rupiahs fifty cents.
5. If there is a fine caused by concursion (concursus) or repetition (resedive), or because of the provisions of Article 52 (delict of office), then the penalty for imprisonment is a maximum of 8 months.
6. Substitute prison sentence may not exceed 8 months.

Furthermore, in Article 31 of the Criminal Code it is stated that the convict may undergo alternative imprisonment without waiting for the deadline for payment of a fine. Basically, the convict can reduce his imprisonment by paying the fine. Payment of a portion of a fine, either before or after starting to serve a substitute imprisonment, frees the convict from a portion of the imprisonment in proportion to the portion he has paid.

Regarding fines, the legislators do not determine a general maximum limit. In each article in the relevant Criminal Code, a maximum (specific) fine is determined by the judge. Meanwhile, the largest fine has been threatened in Article 303 paragraph (1) of the Criminal Code, namely 25 million rupiah for those without rights:

1. Deliberately doing business, namely offering or giving an opportunity to gamble or deliberately participating in such a business.
2. Deliberately offering or giving opportunity to the general public to gamble or knowingly or knowingly participating in such a business, regardless of whether the use of the opportunity depends on a condition or knowledge of a method or not.
3. Has participated in gambling games as a business.

Fines as the main crime as in Book I of the Criminal Code, are distributed in the formulation of each criminal act both in Book II and Book III. The weight of the types of fines in book II of the Criminal Code are 2 single fine articles (for crimes), 40 single fine criminal articles (offences), 133 alternative imprisonment or fine articles, and 34 alternative imprisonment or fines.

Fines as an alternative to short-term deprivation of liberty are most rarely imposed by judges, especially in judicial practice in Indonesia in cases of criminal acts in the Criminal Code, because the amounts of fines in the Criminal Code are no longer in accordance with the nature of the crime committed, due to the criminal threat. the fine is now too light in comparison with the value of today's currency. This is then used as an excuse for law enforcers to apply the penalty for loss of independence, compared to the fine.

Meanwhile, in the development of criminal acts regulated outside the Criminal Code, there is a tendency to increase the number of fines imposed. The increase in the number of threats in each formulation of offenses outside the Criminal Code in each current law has been adjusted to the current currency value. For example, Law Number 11 of 2008 concerning Information and Electronic Transactions, which has a minimum sanction of 6 years in prison or a fine of Rp. 1,000,000,000, - and a maximum of 12 years imprisonment or a fine of Rp. 12,000,000,000. Even for property crimes of up to trillions, as in Law Number 1 of 2002 concerning Terrorism, there is no imprisonment alternative to fines. There is only a single prison sentence of 12 articles and a single fine of 1 article, namely Article 18 paragraph 2 stipulates that the principal sentence that can be imposed on corporations is only punishable by a maximum fine of Rp. 1,000,000,000,000.- (one trillion rupiah).

All criminal acts outside the Criminal Code that are regulated in criminal law laws and regulations as well as laws and regulations that regulate punishment always stipulate criminal fines that are adjusted to currency values. The fines imposed on several criminal acts contained outside the Criminal Code are so high when compared to the fines contained in the Criminal Code. With regard to the above, it is necessary to have a certain pattern in the regulation of fines, especially those concerning criminal provisions outside the Criminal Code. The pattern that regulates alternative and cumulative possibilities, as well as any offense outside the Criminal Code that allows for the threat of fines.

So that in the RKUHPid this pattern has been formulated to determine the amount of criminal fines in accordance with the currency value and the development of the nation's economy with a categorization system. As well as setting the method and implementation of criminal fines.

Islamic law also stipulates fines which have the same meaning as diat criminal sanctions as the main crime in murder and persecution or crimes related to life and body.

This definition includes the diyat for murder and the diyat for bodily injury, because this compensation property is given to the victim if the jinayat does not kill him and is given to his guardian if the victim is killed. Ahmad Azhar Basyir said that Jarimah Diat is a finger whose original punishment is diyat, which includes accidental murder (murder due to wrongdoing) and murder as intentional (semi-intentional) (Basyir, 2001).

Diat is a punishment imposed on a person in the form of madaniyah uqubat as a substitute for bodily uqubat in the form of handing over or confiscating a property as compensation for crimes against the human soul and body. Diat is an alternative punishment of kisas as a partner of forgiveness (pardon) from the victim or the victim's family. According to Syarbini Khatib, diat is property that must be paid for because of a crime or an independent person regarding a soul or something else (Samin, 2007).

So the diat punishment is applied to the crime of unintentional murder or the crime of persecution without waiting for forgiveness from the victim or his heirs, but this pardon is still permissible either as a penalty in exchange for an abolition of the crime or a sanction in exchange for a reduction in the sentence.

Even though fines have been accommodated in the Criminal Code, they are no longer relevant to economic developments and changes in the Rupiah exchange rate. Formulate a criminal law policy to criminalize fines in the RKUHPid draft with a categorization pattern.

Fines in the RKUHP are still formulated as part of the main punishment in addition to imprisonment, cover-up punishment, supervision punishment and social work punishment (Article 65 paragraph 1 letter d). while Article 80 explains the pattern of criminal fines specified in the RKUHPid is:

1. A fine is a crime in the form of an amount of money that must be paid by the convict based on a court decision.

2. If no special minimum is specified, then a fine of at least Rp. 100,000 (one hundred thousand rupiah) is imposed.
3. The most fines are determined by category, namely:
   a. Category I IDR 6,000,000 (six million rupiah);
   b. Category II IDR 30,500,000 (thirty million rupiah);
   c. Category III IDR 120,000,000 (one hundred twenty thousand million rupiah);
   d. Category IV IDR 300,000,000 (three hundred million rupiah);
   e. Category V IDR 1,200,000,000 (one billion two hundred million rupiah); and
   f. Category VI IDR 12,000,000,000 (twelve billion rupiah).
4. The most fines for corporations are the next higher category.
5. The maximum fines for corporations that commit criminal acts are punishable by:
   a. imprisonment for a maximum of 7 (seven) years up to 15 (fifteen) years is a fine of Category V;
   b. death penalty life imprisonment or imprisonment for a maximum of 20 (twenty) years is a fine of Category VI.
6. The minimum fine for the corporation as referred to in paragraph (5) is a Category IV fine.
7. In the event that there is a change in the value of money, the provisions for the amount of fines shall be stipulated by a Government Regulation.

Fines are very synonymous with assets, so the formulation takes into account the convict's ability to carry out the fine. Because for convicts who have assets, fines are not a problem, but if convicts do not have assets, then Article 81 of the RKUHPid formulates as follows:

1. In imposing fines, the ability of the convict must be considered.
2. In assessing the ability of the convict, it must be considered what can be spent by the convict in relation to his personal and social circumstances.
3. The condition of the convict's ability does not reduce the application of the special minimum fines set for certain crimes.

If the convict is unable to carry out the fine, then he is given time to fulfill the sentence with the pattern of implementing the fine, namely that the fine can be paid in installments within the grace period according to the judge's decision. If it is not paid in full within the stipulated time limit, the unpaid fine can be taken from the wealth or income of the convict (Article 82 RKUHPid).

If the convict is completely unable to carry out a fine, then Article 83 of the RKUHPid formulates a penalty in lieu of a fine. For punishment in lieu of category I fines, it is stated that:

1. If the taking of the wealth or income of the convict is not possible, then the unpaid fine shall be replaced by a social work sentence, supervision sentence or imprisonment provided that the said fine does not exceed a Category I fine.
2. The duration of the alternative punishment is:
   a. For alternative social work punishment, the maximum sentence is 240 (two hundred and forty) hours for defendants who are 18 (eighteen) years and over and 120 (one hundred and twenty) hours for defendants who are under 18 (eighteen) years old. The implementation of social work punishment may not be commercialized.
   b. for supervision punishment, the minimum is 1 (one) month and the maximum is 1 (one) year;
   c. for a substitute imprisonment for a minimum of 1 (one) month and a maximum of 1 (one) year which can be aggravated for a maximum of 1 (one) year and 4 (four) months if there is an aggravation of criminal fines because of concomitant or because of the aggravating factor of the crime as referred to in Article 134.

3. The calculation of the length of replacement punishment is based on the size for each fine of Rp. 15,000 (fifteen thousand rupiahs) or less equivalent to:
   a. 1 (one) hour of replacement social work;
   b. 1 (one) day of supervision punishment or substitute prison sentence.
4. If after serving a substitution sentence, part of the fine is paid, then the length of the substitution sentence is reduced according to the size for each fine of Rp. 15,000 (fifteen thousand rupiahs) or less equivalent to 1 (one) hour of substitute social work punishment, and 1 (one) day of supervision punishment or substitute prison sentence.

Meanwhile, a penalty in lieu of a fine exceeding category I can be applied if the taking of the convict's wealth or income cannot be carried out, then it is replaced with a minimum imprisonment of 1 (one) year and a maximum of 1 (one) year as threatened for the crime concerned. If after serving a substitution sentence, a portion of the fine is paid, then the length of the substitution sentence is reduced according to the size for each fine of Rp. 15,000 (fifteen thousand rupiahs) or less equivalent to 1 (one) day of substitute imprisonment (Article 84).

If the penalty in lieu of fines for corporations in the formulation of Article 85 RKUHPid states that the taking of corporate wealth or income cannot be carried out, then corporations are subject to substitute punishment in the form of revocation of business licenses or dissolution of the corporation.

The criminal law policies formulated in the RKUHPid only have changes to the criminal penalty pattern of fines but the intent of the formulation of the crime is intended for the state treasury, while victims who experience direct losses are only regulated in additional crimes in the form of compensation related to criminal acts related to property. assets, repairs due to criminal acts related to damage resulting from criminal acts. Meanwhile, criminal acts related to the soul and body are implicitly contained in the sentencing guidelines, namely if the victim apologizes, of course the forgiveness can be seen from two orientations. The first is unconditional forgiveness, while the second is certainly conditional. Terms are various, but generally ask for a certain amount of money.

The RKUHPid provides space for perpetrators and victims to make peace outside of court. This concept tries to adopt restorative justice to recover victims as a way of adopting diyat punishment in Islamic criminal law. The formulation in the RKUHPid will cause injustice to criminals. Justice that must be raised is justice for all parties. On the one hand fighting for justice for the victim, but on the other hand harming the perpetrator. The injustice that will be experienced by the perpetrators is that the victims or their families will ask for diyat as they wish, thus cornering the perpetrators or giving the perpetrators difficult choices.

So diyat should also be interpreted as a witness to fines so that it can be regulated in the RKUHPid as one of the crimes in the future criminal law sanction system. Because the penalty for diyat in Islamic law has determined the maximum limit, namely 100 camels. Furthermore, it is the judge who determines the payment of diyat to the victim or his family with a court decision with the amount of diyat according to the judge's consideration. So the solution must be in the criminal justice system.

The concept of diyat is different from the concept of fines in criminal law. Diyat is a payment of a certain amount that must be given by the defendant to the victim or his family. Meanwhile, fines must be given to the state. From several aspects, the concept of diyat is considered more suitable for restoring the rights of victims of criminal acts. If the victim is the victim, why is it that the state receives the fine from the defendant? One part of the concept of diyat in Islamic law is a different concept called restorative justice which is again a concept in the process of sentencing in the development of criminal law.

The conversion system actually already exists in the formulation of the Criminal Code and the RKUHP, criminal fines as substitution or substitution crimes, but the value of fines

that have not been adjusted to the value of the rupiah exchange rate and fines can be converted into criminal penalties so that penitentiaries are fuller.

The conversion system of flogging as a substitute for corporate law and fines as a substitute for property punishment, these two types of sanctions can be carried out in a short period of time, are effective and have a deterrent effect. This criminal sanction can be converted to imprisonment for a certain time. This can have the effect of reducing the number of prison inmates which is very significant.

CONCLUSION

The criminal law policy regarding the release of convicts during the Covid 19 pandemic in the ius constituendum, namely in the Correctional Bill there is the concept of restorative justice as a means of social integration, but the formulation of this concept has not been clearly implemented, so it is necessary to use the concept of restorative justice at the post-adjudication stage as a means to reducing correctional inmates as well as recovery of victims and their original condition. As well as in the RKUHP implicitly there is a concept of conversion of the sanction system but it has not been clearly formulated, so there is a need for the concept of conversion of the sanction system as an alternative in an effort to reduce

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