

Community Service Sentencing: Its Urgency in and Contribution to Future Criminal Law in Indonesia

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Abstract

This study seeks to explain the urgency and contribution of community service sentencing to criminal law in Indonesia in the time to come. This study employed socio-legal methods, presenting two main issues, involving the urgency of community service in future criminal law in Indonesia and how community service sentencing contributes to criminal law in the time to come. These two problems are deemed urgent and require responses, considering that Indonesia arrived at the new threshold of criminal policies concerning community service given as sentencing following the promulgation of Law Number 1 of 2023 concerning the Penal Code. From the analysis of the issues, this research leads to the two following conclusions; viewing this issue from the humanitarian and philosophical perspectives, this research has concluded that, first, this problem is to be urgently put as part of the criminal policies in Indonesia; second, community service sentencing is likely to curtail the potential of seizing the freedom of offenders while providing room for offenders to maintain their existence as acceptable human beings in society.

Keywords: community service sentencing, criminal law, Indonesia.

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1. Introduction

Efforts have been made to seek an alternative to criminal measures that seized freedom since the 1960s. ('Alternatives to Pretrial Detention', 2022)(Rusman, 2022) Universally, these efforts have departed from reality showing that detestation of this seizure is growing for humanitarian, philosophical, and economic reasons in Indonesia and some other parts of the globe. Some studies support this notion. M. Hasbi Ash-Shiddiqqi, Alhusni, and Yudi Armansyah, in their writing entitled "The Discourse on the Imposition of Community Service Sentencing from the Perspective of Islamic Law" (title translated) concludes that the notion of the birth of community service order leans on the fact asserting that imprisonment in Indonesia has not led to any positive impacts on convicts.(Ash-Shiddiqqi and Alhusni, 2021) Another study also supports community service sentencing as a way of protecting convicts from stigma(Tongat *et al.*, 2020). Community service sentencing seems to fit those involved in criminal negligence as in road accidents(Shannon Hocter, 2022).

Many factors underlie the adoption of community service practices as primary criminal sentencing in sentencing systems in Indonesia. The shift from a retributive to a restorative paradigm(Ravena *et al.*, 2023) serves as the underlying reason for adopting community service sentencing in Indonesia. This shift goes in line with the tendency of countries worldwide that start to seek alternatives to imprisonment that seize the freedom of convicts, particularly short-term sentencing(Lešková, Ilavská and Martín, 2022) to curtail the negative impacts that may follow. Intertwined with the efforts made to restrict and reduce such short-term freedom-seizing sentencing, non-institutional sentencing has also been introduced.(Wermink *et al.*, 2023) Some research confirms this matter. Asiyah Jamilah and Hari Sutra Disemadi in their writing entitled "*Community Service Sentencing: Policies to Overcome Overcrowded Prisons*" (title translated) conclude that community service sentencing as an alternative to short-term imprisonment is expected to at least reduce the negative impacts of massive imprisonment in Indonesia.(Jamilah and Disemadi, 2020)(Ulfah, 2021)(Zakiyah, 2016) Congruous with Asiyah Jamilah's research, Iskandar Wibawa in his writing entitled "*Community Service Sentencing and Restitution as an Alternative to Imprisonment in Law Reform in Indonesia*" (title translated) also concludes that community service sentencing and restitution as an alternative to short-term imprisonment(Fajri, 2019) should come as a solution to the shortcomings of imprisonment.(Wibawa, 2017)

Departing from the above issue, this research will present an in-depth analysis of the two main problems: the urgency of community service sentencing in future criminal law in Indonesia. Following the promulgation of Law concerning Criminal Law dated 2 January 2023, Indonesia has come to a new threshold of criminal policies adopted from community service sentencing in the sentencing systems in Indonesia. Community service sentencing serves as one of the main sentencings in the sentencing systems in Indonesia. This research also seeks to find out the contribution of community service sentencing to criminal law in Indonesia in the future. The prospect and probability of this matter will need to be further looked into, considering that sentencing is a mere

instrument with which the goal of sentencing is achieved. To further provide academic-theoretical elaboration on the existence of such sentencing in the sentencing systems in Indonesia, community service sentencing needs to be profoundly investigated in terms of how far the prospect of bringing about the expected goals is.

2. Methods

This study employed socio-legal methods (Fatima, 2023) (Ansari and Negara, 2023) departing from textual studies, particularly the study of Law Number 1 of 2023 concerning the Penal Code to investigate whether the lawmaking regarding the formulation of the policies carries the breakthrough and legal findings that take into account the values living in society. In other words, this research not only refers to juridical texts but social reality will also be considered. This research will not observe the law theoretically apart from its social context, but it will lean more towards the law in its relation with people. In other words, this research is not only addressed to observe the law as an abstract regulatory system and as an autonomous institution apart from matters existing outside regulations, but it also takes into account the law as a tool to rule people.

3. Results and Discussion

Urgency of community service sentencing in future criminal law in Indonesia

Determining sentencing for criminal offenses can be seen as a quandary. On one hand, there is a greater expectation of criminal law in society. They believe criminal law is reliable as preventive (Shuai and Liu, 2023) (Kumar and Abbas, 2023) and repressive instruments to cope with criminal offenses. (MacUlan and Gil Gil, 2020) On the other hand, the capability of criminal law is limited. Coping with criminal law (as a penal instrument) is more focused on tackling the symptoms (*kurieren am symptom*), where criminal offenses are resolved after they take place (repressive), as opposed to preventive ones. (Barda Nawawi Arief, 2008) Preventive action through a non-penal approach should be the most strategic way of settling disputes in curtailing the causal factors of criminal offenses. From multiple perspectives, settling criminal offenses with an integrated approach of penal and non-penal measures should be an ideal option.¹

Apart from being a quandary, utilizing criminal law as an instrument to cope with criminal offenses has been criticized due to its negative complexities (Mancini and Metcalfe, 2023) simply because it seizes the freedom of the offenders, (Wieczorek, 2018) including imprisonment which is increasingly detested in terms of humanitarian, philosophical, and economic perspectives. Imprisonment has been heavily lambasted for its negative and complex impacts, while its contribution has always been debatable. Criticism against the practices of imprisonment is triggered more by the likelihood of stigma, (Sudarto, 2007) inhumanity, (Tongat, 2001) and the act of imprisonment (Gillespie, 2002) that tends to criminalize offenders, (Cid, 2009) (Walters, 2021) all of which have triggered the emergence of alternative concepts to this freedom-seizing penalty.

The stigmatization (Shi, Silver and Hickert, 2022) where a person is negatively labeled as a criminal offender often starts from the point when he/she is arrested by police following the accusation of committing a crime until he/she is declared guilty under a court of law. This scene seems to leave complicated social impacts for both the offender and his/her wife/husband, children, and parents. Such stigma built following the arrest is believed to be much heavier to bear compared to imprisonment per se. Unlike imprisonment, stigma remains even after a convict has completed his prison life. That is, stigmatization leaves nothing but a negative stain on convicts.

Inhumanity is another impact left by imprisonment (Leader Maynard and Luft, 2023) since offenders are often exiled from their community. In such a case, people feel that ex-convicts are 'dirty' for what they have committed. This may cause them to maintain distance from ex-convicts, restrict social contact with them, and get them exiled. In some cases, ex-convicts had to face eviction from their homes. This inhumanity also leads to complex social impacts, affecting not only the ex-convicts but also others close to them. Inhumanity can even force ex-convicts to repeat offenses as they feel that there is no more chance left to get the trust of others.

Imprisonment has negatively and seriously affected the people concerned. The process of interaction among inmates in a correctional department seems to serve as a medium for the transformation of criminal offenses. Imprisonment has been the medium for enculturation—a process that shapes all kinds of criminal conduct into a tradition or a structure within the community of inmates. This process also builds a sense of being stronger among inmates because of the support they get from other inmates. This notion is congruous with what Wayne Gillespie once expressed by quoting Clemmer's words: (Gillespie, 2002)

"Prisonization involves a process of assimilation or socialization that Clemmer (1958) described as "a slow, gradual, more or less unconscious process during which a person learns enough of the culture of a social unit into which he is placed to make him characteristic of it" (pp. 298-299). He fully defined prisonization as "the taking on in greater or less degree of the folkways, mores, customs, and general culture of the penitentiary" (Clemmer, 1958, p. 299). Prisonization is essentially secondary socialization

¹ Ibid.

inside correctional facilities whereby inmates undergo a process of enculturation into the inmate subculture that includes adoption of the inmate code in greater or lesser degree”.

Utilizing criminal law as an instrument to prevent criminal offenses through a penal approach has been criticized for its costly and unjust process, and it is also seen as immoral and a failure. The costly penal mechanism, including the penal process in Indonesia, is an inevitable reality. For instance, *50 state systems plus the Federal prison system spend and you find the U.S. spends over \$ 60 billion a year for prisons. Among all levels of government, the U.S. spends more than \$40 billion on courts and \$100 billion on police”.* In Indonesia, this system is even more miserable, making the public cynicism in responding to court mechanisms escalate. This cynicism explains costly penal processes in court. Among them involved in this penal process, we often hear “It has to take a goat to fight for a chicken, and it has to take a cow to fight for a goat”. That is, people often feel that they have to lose something bigger only to get something smaller. In Javanese, it is often termed “*mburu uceng kelangan deleg*”. This situation is worsened by other dirty practices such as extortion, bribery, and other corruptive practices. All such dirty practices are obvious in law enforcement in Indonesia. A series of dirty practices in this context stays in the mind, and it is even more obvious when the media have full access to publicizing these unfair practices. For example, this practice is reflected in the case of the Chief of Corruption Eradication Commission FB as a suspect following the accusation of blackmail against SYL. It is ironic that the chief of an institution that is responsible for eradicating corruption committed corruption.

Penal measures have also been criticized for their injustice. Discrimination is obvious among those of different races, tribes, economic and social statuses, and religions. Discrimination seems to be the passageway to unjust practices in court processes. Inequality before the law is a fact commonly heard in day-to-day life, as the law is seen as unfair and discriminative. Penal measures are also lambasted for their immorality. The morality in courts is always questioned along with the overcrowded correctional facilities that fail to accommodate the need. That is, putting people in jail in which they are more marginalized and discriminated against due to poor facilities and infrastructure should not be taken as a progressive and moral alternative.

Criticism over the seizure of freedom as discussed above indicates that community service sentencing as an alternative to a freedom-seizing penal mechanism is urgent. First, the alternatives may prevent offenders from the negative impacts of imprisonment. Second, community service sentencing serves as a solution to the high living cost convicts have to spend inside correctional facilities, considering that community service always takes place outside the facilities. Third, community service sentencing gives space to criminal offenders to live as social beings like others while they can still perform their day-to-day activities and support the economy of the family.

Contribution of community service sentencing in future criminal law in Indonesia

Notwithstanding the quandary, referring to criminal law to cope with criminal offenses is seen as the most rational and civilized response. Considering such more civilized responses to criminal offenses and offenders is vital in a global and civilized world. In this context, Winston Churchill said, *“The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country.....”.* (Armstrong, 2009) This view indicates that public responses to crimes and perpetrators may serve as measuring instruments of the civilization of a country. Intertwined with such a classical thought, the measures taken to curtail negative impacts arising from the situations in correctional facilities should not be overlooked although these measures are not always satisfactory.

Within the context of Indonesia, correctional facilities in an institution responsible for administering imprisonment in accordance with Law Number 22 of 2022 concerning Correctional Facilities superseding Law Number 12 of 1995 concerning Correctional Facilities have sparked complicatedness. Correctional facilities based on an institution are facing issues coming from violence among inmates, unrest, drug circulation, and issues resulting from a shortage of prison wardens in terms of both the quantity and quality, poor funding, and other acute problems such as bribery, extortion, facility transactions inside the correctional institutions and overcrowded prisons. This over-capacity issue is pivotal since its implications can be highly complex. Overcrowded prisons also seem to open a wider chance of violations of the rights of inmates to healthcare services, healthy food, and a hygienic environment. Issues inside correctional departments also escalate to an extent where licenses and access to certain facilities are available for sale among inmates. (KPK *Ada Bisnis Jual Beli Fasilitas Di Lapas Sulit Bicara Efek Jera Korupsi*, no date) The following Table describes the number of correctional institutions all over Regional Offices in Indonesia.

Table 1. The Number of Inmates in every Regional Office in Indonesia in 2023

No.	Region	Total Inmates, T-N	Available Capacity
1.	Aceh	7920	4166
2.	Bali	4047	1544
3.	Banten	9597	5393
4.	Bengkulu	3014	1792
5.	Jakarta, the Capital City	15139	5919
6.	Special Region of Yogyakarta	2436	2165
7.	Gorontalo	1102	1028
8.	Jambi	5232	2418
9.	West Java	24862	17036
10.	Central Java	13330	8847
11.	East Java	27783	13289
12.	West Kalimantan	6664	2549
13.	South Kalimantan	9908	4382
14.	Central Kalimantan	4832	1978
15.	East Kalimantan	12229	3925
16.	Bangka Belitung islands	2549	1311
17.	Riau Islands	4909	2798
18.	Lampung	8911	5130
19.	Maluku	1653	1342
20.	North Maluku	1272	1732
21.	West Nusa Tenggara	3985	2494
22.	East Nusa Tenggara	3127	2650
23.	Papua	2951	2231
24.	West Papua	1447	1108
25.	Riau	14271	4241
26.	West Sulawesi	1409	1022
27.	South Sulawesi	7858	4405
28.	Central Sulawesi	3782	2001
29.	Southeast Sulawesi	3475	2441
30.	North Sulawesi	3044	2126
31.	West Sumatera	6398	3581
32.	South Sumatera	15989	6400
33.	North Sumatera	32024	13802
Total		267,149	137,246

Source: *Ditjenpas processed data*

Legend :

Inmates, T-N = Inmates, Prisoners, and Convicts

The above table denotes the inevitability of finding an alternative to such imprisonment amidst the issue of overcrowded correctional institutions, and community service sentencing should be the solution.

Finding the alternative to freedom-seizing imprisonment or detention is inevitably triggered by increasingly complex prisonization. Community service sentencing is expected to serve as an alternative to help eliminate or at least curtail the negative impacts brought by such prisonization practices. Community service sentencing is principally to get convicts involved in social work outside correctional facilities. The following are the details of the urgency and contribution to criminal law in Indonesia in the future along with the benefits and shortcomings of social work compared to imprisonment (prisonization and detention).

As discussed above, the intellectual process that has taken place for nearly sixty years has brought Indonesia to its own Penal Code passed on 2 January 2023 through Law Number 1 of 2023 concerning the Penal Code. The provision of Article 65 in conjunction with Article 85 of Law Number 1 of 2023 concerning the Penal Code expressly regulates community service as one of the sentencing measures that judges can impose in the criminal law in Indonesia in the time to come:

Article 65

(1) Basic punishment as referred to in Article 64 letter a covers the following:

- a. imprisonment;
- b. privilege punishment;
- c. supervision;
- d. fine; and

- e. community service.
 - (2) The order of punishment as referred to in paragraph (1) determines the severity of the punishment
- Article 85
- (1) Community service punishment can be imposed on a defendant committing a crime punishable by less than 5 (five) years' imprisonment and judges impose a maximum of 6 (six) months' imprisonment or a fine of the maximum amount of category II.
 - (2) In terms of community service punishment, as referred to in paragraph (1), judges are obliged to consider the following aspects:
 - a. the confession of a defendant about the crime committed;
 - b. the working skill of the defendant;
 - c. the consent from the defendant following the explanation of the objectives and other matters related to community service punishment;
 - d. the social backgrounds of the defendant;
 - e. work protection of the defendant;
 - f. the religion, faith, and political faith of the defendant; and
 - g. the capability of the defendant to pay the fine
 - (3) Community service punishment must not be commercialized.
 - (4) The shortest duration of community service punishment is 8 (eight) hours in 1 (one) day and the longest duration is 240 (two hundred and forty) hours.
 - (5) The longest duration of community service punishment is 8 (eight) hours in 1 (one) day and it can gradually be performed for not more than 6 (six) months in which the activity of earning money and/or other activities performed by the defendant should receive attention.
 - (6) The implementation of community service punishment as referred to in paragraph (5) is specified in a court decision.
 - (7) The court decision as referred to in paragraph (6) also specifies the following mandatory orders if the defendant, without any compassionate reasons, fails to perform all or part of community service:
 - a. repeating all or part of community service;
 - b. serving all or part of imprisonment superseded by community service; or
 - c. pay all or part of the fine superseded by community service and serve imprisonment for an unpaid fine
 - (8) Supervision over community service punishment by prosecutors and counselors is administered by the wardens in correctional facilities.
 - (9) The court decision specifying community service shall cover:
 - a. the duration of imprisonment and the amount of fine imposed by judges;
 - b. the duration of community service punishment along with the hours per day and the deadline for completion of community service; and
 - c. sanctions imposed if the defendant fails to perform community service required.

Article 65 (1) in conjunction with Article 85 (1) of Law Number 1 of 2023 concerning the Penal Code expressly indicates that community service sentencing can be imposed by judges within the scope of criminal law in Indonesia in the time to come (put in place on 2 January 2023) according to the provision in Article 624 of Law Number 1 of 2023. Article 85 (1) also implies that community service sentencing cannot apply to all offenders, considering that this sentencing can only affect those imposed with under five years imprisonment, in line with the fact that there is a greater number of those serving under five-year jail sentence as specified in Law Number 1 of 2023. When this is the case, the feasibility of imposing community service sentencing as an alternative to prisonization (Kirkwood and Hamad, 2019) is greater.

Community service sentencing can also be imposed by judges in regard to the fine of category II. That is, the chance of delivering community service sentencing also leads to the imposition of a category-II fine (with a maximum amount of ten million rupiahs), giving a greater chance of setting community service sentencing as an alternative. However, we have to bear in mind that community service sentencing should not only rely on the judgment from the judges but the provisions specified in Article 85 paragraph (2) of Law Number 1 of 2023 must also be considered:

- (1) The confession of the defendant of the offense committed.

Recalling that community service is done voluntarily with the awareness of the perpetrator, the confession made by the defendant must be proven. This imposition will face issues when the defendant denies the accusation.

- (2) The defendant's capability to serve community work.

The defendant's capability is another vital consideration before community service is imposed because community service is principally imposed as a punishment by putting convicts to work. Therefore, judges will not impose such punishment on those incapable of doing the work although community service

will not require professional working skills. Some social work is often available and requires only their available time and presence in, for example, nursing homes, orphan houses, and other organizations.

(3) The consent of the defendant following the details about the objectives and all matters related to community service.

The consent of the defendant indicates that community service does not involve coercion given by law enforcers to the defendant. community service is intended to respect human rights, as congruous with Article 85 paragraph (2) letter c expressly explaining that “one of the pivotal factors in imposing community service sentencing is the consent of the defendant according to the provision specified in *the Convention for the Protection of Human Rights and Fundamental Freedom (Treaty of Rome 1950)* dan *the International Covenant on Civil and Political Rights (the New York Convention, 1966)*”.

(4) The social history of the defendant.

According to the official provision in Article 85 paragraph (2) letter d, the social history of the defendant is required to assess the preparedness of the defendant concerned, either physically or mentally. In other words, the mental and physical factors of the defendant must be carefully assessed to ensure that they are eligible for social work.

(5) Protection for the work safety of the defendant.

Preparedness is the factor that judges will carefully take into account before community service sentencing is imposed for the sake of the safety of the defendant in community service practices. This matter should also receive attention from the official head of the institution responsible for administering the social work.

(6) Religion, faith, and political faith of the defendant.

Considering that community service is placed in several social organizations such as schools, orphan houses, nursing homes, and worshipping centers, among others, the judges, in this case, should consider these aspects before community service sentencing is imposed to ensure the comfort of the defendant in serving social work in a particular place.

(7) The financial capability to pay the fine

Because community service sentencing can serve as an alternative to the fine, the financial capability of the defendant to pay the fine is something to be considered. If the fine that judges are about to impose is within category II, community service sentencing should be the alternative considering the financial capability of the defendant.

Community service sentencing is expected to fit the objective of sentencing as set out in Law Number 1 of 2023 concerning the Penal Code:

(1) To prevent criminal offenses from happening by enforcing legal norms for the sake of the protection of citizens.

One of the common functions of sentencing is for general prevention as embedded in the punishment set out in the law because every punishment holds the function of preventing in a general scope, including community service. Although this prevention does not necessarily take place, which also applies to more severe punishment such as prisonization put as a priority of punishing due to its promising function as retribution, prevention, detention or prisonization, and rehabilitation, the concrete outcomes of such prevention remain debatable.

(2) Correcting convicts through training and counseling for better individuals.

One of the essential objectives of sentencing is to help convicts return to their society. This resocialization (Fischer and Geiger, 1996) is pivotal in sentencing, particularly in terms prisonization within a certain period. Resocialization has faced some issues closely related to dehumanization or exile against a defendant. Therefore, resocialization measures are essential. Sentencing that gives a chance to convicts to stay connected to other members of society will help curtail the likelihood of stigmatization and dehumanization. Community service sentencing, (Bjørn Kjetil, Atle and Hilde, 2022) therefore, is expected to let convicts interact with other members of the public since it is believed to help minimize the negative impacts arising from prisonization.

Community service is intended to let convicts work according to their capability and skills, while this program also corrects their behavior.

(3) Synchronizing conflicts arising from criminal offenses, maintaining harmony, and guaranteeing safety and peace in society.

Sentencing is aimed at settling conflicts resulting from criminal conduct, maintaining harmony, and guaranteeing safety and peace among the members of the public. (MacUlan and Gil Gil, 2020) At this point, reconciliation between an offender and other community members is always open, considering that convicts are given a chance to live in and interact with other people. Guaranteeing an opportunity to interact with their surroundings will correct the behavior of convicts more acceptably. The community service in which convicts should be involved will reintegrate them into society, thereby curtailing or even

eliminating dehumanization.

(4) Instilling regret but erasing the guilty feeling among convicts.

The main objective of sentencing is to instill regret but erase the feeling of guilt among convicts. (Rafsanjani, Prasetyo and Anggayudha, 2023) Community service in this context is expected to benefit others while allowing them to live their normal life. The more benefits are given, the more possible it is for them to feel less guilty. To a further extent, their involvement in community service will instill regret and reduce the likelihood of recommitting offenses.

The above elaboration indicates the benefits and shortcomings of community service and sets the basis for the contribution of community service compared to prisonization:

First, in terms of the essence and principle of non-custodial sentencing, where convicts are not placed in an institution, the negative impacts such as stigmatization, prisonization per se, and dehumanization can be avoided, and so can the negative interactions among convicts inside an institution. On the other hand, placing convicts in society will curtail dehumanization.

Second, in line with the new criminal policies in Indonesia, as set out in Law Number 1 of 2023 concerning the Penal Code, community service can be imposed on convicts serving not more than five years imprisonment, as regulated by the Penal Code. In other words, the chance of implementing community service sentencing is greater and this practice will markedly overcome overcrowded correctional facilities, considering that the number of those punished with less than five years' imprisonment accounts for about 80% of the total punishment specified in the Penal Code. Therefore, this implementation is more likely to reduce inmates in correctional facilities by up to 80%.

Third, community service will also help minimize the living cost among inmates inside correctional facilities. As non-custodial sentencing where convicts remain outside correctional facilities, community service will not require any specific living cost, thereby helping inmates to significantly reduce their living costs. In such a case, community service also helps alleviate the burden of tax paying.

Fourth, by placing inmates in community service in some social organizations, the mobilization of the offenders will also contribute benefits to other community members, particularly when such community service is not given for commercial purposes. Through this process, the existence of the offenders is recognized by society, and stigmatization and dehumanization can, therefore, be averted.

Fifth, it is true that community service helps with the economy of the families. Convicts put in community work can still earn money to help with the economy of the families. Therefore, they will remain responsible as breadwinners. The placement outside correctional facilities also helps reduce the cost as long as the punishment period remains, while the visiting cost that family members have to spend when their other members are in correctional facilities is not small.

The above values of community service can be the basis of determining a more civilized way of sentencing, and this has been considered as a measure by legal experts worldwide and in Indonesia to ensure civilized responses from the members of the public to the quality and quantity of the development of crimes. Public responses, as Winston Churchill argued, should serve as an instrument measuring the civilization of a nation. In this case, the criminal affairs in Indonesia should also find alternatives to ensure that criminal law can be enforced according to the principles and recognition of human rights and as a reflection of civilization. As part of the intellectual consideration of human beings, criminal law should hold the essence of humanizing people. (Tongat, 2020) That is, consideration of criminal law will tend to place human beings as the dignified and civilized creation of God. This sense is present amidst human existence in a more modern context, and criminal law is called on to serve as the law that upholds the value of human rights.

However, to reach a certain point, criminal law is entitled to a process as a reflection of human civilization and stays in the process based on the principle as a reflection of human civilization. Satjipto Rahardjo (Rahardjo, 2009) argued that law, including criminal law, is always in the process and in the making.¹ In other words, the law is capable of serving and devoted to people's interests. Law represents human beings, not the other way around. Law exists not for the sake of the law per se, but more for the sake of human beings.² Therefore, criminal law should be civilized. Through the intellectual process for nearly 60 years, Law Number 1 of 2023 concerning the Penal Code, criminal law in Indonesia has inserted community service sentencing that can be imposed within the scope of criminal law in Indonesia.

4. Conclusions

Departing from all the above elaboration, this research has drawn the following conclusions that criticism over the practices of prisonization indicates the urgency of community service sentencing that could serve as an alternative to prisonization, particularly in the scope of future criminal law in Indonesia. Seizing the freedom of

¹ *Ibid.*

² *Ibid.*

convicts through prisonization needs immediate responses for several reasons. First, community service sentencing is thought to help prevent the negative impacts caused by prisonization. Second, community service sentencing serves as a solution to high living costs inside correctional facilities, contrary to the fact that community service takes place outside the institutions, which means that it could reduce the cost spent inside correctional facilities. Third, community service does not snatch the freedom among convicts to interact with other people and gives convicts a chance to live a normal life and earn money to support their families. Community service sentencing significantly contributes to criminal law in Indonesia in the time to come: first, as non-custodial sentencing, it does not place convicts inside correctional facilities, thereby preventing the negative impacts that prisonization may result in. Second, this sentencing may help significantly reduce the population of convicts inside the facilities. Third, community service sentencing significantly reduces living costs. Fourth, distributing community service to social agencies helps mobilize convicts in several social agencies and gives benefits to people. Fifth, community service still allows the convicts to earn money to support their families.

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