

In Pursuit of Justice: The Evolution of Social Work in Criminal Supervision

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Abstract

Social work punishment is a form of renewal of basic criminal punishment in Indonesia. Therefore, it is important to regulate the mechanism of social punishment supervision so that the implementation of social work punishment is in accordance with the objectives of punishment in Indonesia, one of which is to create a sense of security in the community. As a form of legal novelty, currently Indonesia does not have legal regulations governing the mechanism of supervision of social work punishment. The policy of social work criminal supervision greatly affects the legal framework in realizing justice. The purpose of this research is to explain the importance of legal reform in the supervision of criminal social work and provide ideas on the ideal model for criminal social work supervision in Indonesia. The method used in this research is normative juridical, by examining the application of rules or norms in positive law with a statutory approach, historical approach, and conceptual approach. The result of this research is that legal reform is needed so that Indonesia has rules governing the implementation of social work punishment in detail so that it can create justice and benefit in society. The ideal model of supervision of social work punishment in *ius constituendum* criminal law reform, namely by formulating a direct supervision model and using a global positioning system (GPS) by Community Supervisors and coordinating with the Prosecutor and the agency where the convict works.

1. Introduction

Social work punishment is one of the main forms of punishment that has become a reform in criminal law in Indonesia. This is because, in modern criminal law, punishment is not only intended to provide punishment to the perpetrator but also to provide benefits to the community¹. This is stated in Article 52 of Law Number 1 Year 2023 on the Criminal Code (hereinafter referred to as the New Criminal Code) which states that "Punishment is not intended to degrade human dignity". Thus, in the reformation of criminal law in Indonesia, punishment is expected not only through imprisonment but also through other alternative punishments so that punishment not only provides a deterrent to the perpetrator but also benefits the community and restores balance and a sense of security in the community. This is in line with Article 65 of the New Criminal Code which regulates 5 forms of basic punishment consisting of imprisonment; closure punishment; supervision punishment; fines; and social work punishment. Where previously in Article 10 letter a of the Old Criminal Code, the main punishments were death penalty, imprisonment, confinement, fine, and exile. Therefore, the criminalization of social workers is a form of renewal in the field of criminal law². Not all

¹ Dede Tri Nugraha Amir, "Studi Perbandingan Sanksi Pidana Kerja Sosial Sebagai Alternatif Pidana Perampasan Kemerdekaan Jangka Pendek Di Belanda Dan Inggris Sebagai Upaya Pengembangan Sistem Pemidanaan Di Indonesia" (Universitas Gajah Mada, 2017).

² Dede Tri Nugraha Amir.

criminal offenses can be subject to principal punishment in the form of social work punishment, only criminal offenses punishable by imprisonment of less than 5 (five) years and the judge imposes a maximum imprisonment of 6 (six) months or a maximum fine of category II can be subject to social work punishment as stated in Article 85 paragraph (1) of the New Criminal Code.

Social work punishment is implicitly regulated in Article 65 paragraph (1) letter e of the New Criminal Code. Social work punishment is regulated as a consequence of the renewal of criminal objectives in Indonesia as stated in Article 51 of the New Criminal Code that there are four objectives of punishment, namely:

- a. to prevent criminal offense by enforcing legal norms for the protection and protection of society;
- b. to socialize the convicts by providing guidance and mentoring in order to become a good and useful person;
- c. resolve conflicts arising from Criminal Offenses, restore balance, and bring a sense of security and peace in society; and
- d. foster a sense of regret and relieve the guilt of the convict.

Social work punishment is an alternative form of imprisonment. This is a consequence of the acceptance of modern criminal law that pays attention to the balance of interests between the actions and circumstances of the criminal offender to develop alternatives other than imprisonment. Through the imposition of social work punishment, the convict can be relieved of guilt, and the community can actively participate for the convict by doing things that are beneficial to the community. Social work punishment replaces the punishment of freedom, which is short-term imprisonment. Social work punishment must also be directed to help the community and make lawbreakers become good people again, so the judge must provide the most effective punishment in accordance with the circumstances of the lawbreaker.

As one of the main forms of punishment, this social work punishment should be maximized in its implementation and supervision in Indonesia. However, as a form of legal novelty in Indonesia, there is currently no legal policy to oversee the implementation of this social work punishment. In fact, legal policy to supervise social work punishment is an effort to maximize the implementation and supervision of social work punishment in Indonesia in the future. This is because criminal law policy is generally formulated to provide protection for the community, victims, and perpetrators of crime³. The New Criminal Code only regulates the supervision of social work punishment in general, namely through Article 85 paragraph (8) of the New Criminal Code which states that the supervision of the implementation of social work crime is carried out by the prosecutor and the guidance is carried out by the community supervisor. The concept of supervision in Article 85 paragraph (8) of the New Criminal Code is also related to Article 85 paragraph (6) and (7) of the New Criminal Code which explains that the implementation of social work punishment must be contained in a court decision which the court decision also contains an order that if the convict without a valid reason does

³ Jamin Ginting, "Sanksi Kerja Sosial Sebagai Alternatif Bentuk Pidanaan Dalam Sistem Hukum Di Indonesia," *Law Review* 19, No. 3 (2020): 247-67.

not perform all or part of the social work crime, the convict is obliged to (a) repeat all or part of the social work punishment (b) serve all or part of the prison sentence which is replaced by a social work punishment or (c) pay all or part of the fine which is replaced by a social work punishment or serve a custodial sentence as a substitute for the unpaid fine. Meanwhile, Article 55 paragraph (1) of Law Number 22 Year 2022 on Corrections states that Community Guidance for Clients is carried out by the Correctional Development Agency (hereinafter referred to as Bapas). Meanwhile, Article 56 paragraph (1) states that the implementation of community guidance includes guidance, coaching, and supervision. Further regulations regarding community guidance are regulated in Article 57 of Law No. 22 of 2022 Provisions regarding Community Guidance (hereinafter referred to as Law No. 22/2022) for Clients as referred to in Article 56 of Law No. 22 /2022 also apply to clients serving social work sentences and adult supervision sentences. Therefore, it is necessary to have a legal policy that regulates the mechanism of supervision of social work punishment in Indonesia in detail in accordance with technological developments so that later the implementation of social work punishment can be effective and have a positive impact on society, victims and perpetrators.

If we look at the comparison of supervision and implementation of criminalization of social work crimes as occurred in several countries, among others, the implementation of criminalization of social work crimes in the Netherlands which first implemented social work punishment as an alternative to imprisonment. In the Netherlands, supervision is carried out by the Dutch Correctional Service Institute (Reclassering Nederland) and the implementation of criminalization of social work crime in the UK is carried out by the National Probation Service. The monitoring model of criminal sanctions for social work in the Netherlands is carried out by a special team using electronic technology based on the Global Positioning System (hereinafter referred to as GPS). The concept of monitoring and evaluation in the Implementation of Social Work Crimes must involve an effective monitoring and evaluation system. Monitoring is also necessary to ensure that offenders do not repeat their criminal acts and remain committed to positive behavior change⁴.

One of the efforts that can be made to supervise social work punishment is by reforming the criminal implementation law in realizing the ideal model of social work punishment supervision. This is certainly related to the regulation of government regulations regarding the implementation of the New Criminal Code because this concept is important to ensure that the implementation of the main form of social work punishment can run effectively and fairly in 2026. Because the application of social work punishment may not be useful in improving the restorative justice, rehabilitation, and reintegration components in the Indonesian criminal justice system if the criminal justice subsystem is not optimally involved. If we look at the purpose of punishment in criminal law reform in Indonesia, one of them is to resolve conflicts arising from criminal acts committed, restore balance, and bring a sense of security and peace in society. In resolving conflicts and restoring balance in society, justice is needed. Based on the above, this research aims to explain the importance of legal reform in the supervision of

⁴ Widya Amanda, "Pidana Kerja Sosial Dalam Pembaharuan Hukum Pidana Nasional" (Universitas Sumatera Utara, 2010).

social work punishment and provide ideas on the ideal model for the supervision of social work punishment in Indonesia⁵.

This research focuses on the criminal supervision paradigm in the Draft Criminal Code which is currently still common, so a policy formulation of the *Ius Constituendum* concept of criminal supervision is needed, such as supervision procedures that must be conceptualized. from an early age, so that the implementation of criminal supervision can run effectively⁶. Second, research by Mahyudin Igo with the title "Policy Formulation in the Criminal Code Bill on Social Work as an Alternative to Prison." This research focuses on criminal law policy on social work, namely in the formulation policy, the stages of law makers carrying out activities to choose appropriate values. with current and future circumstances and situations, social work punishment as an alternative to imprisonment is an effort to realize the aim of punishment, no longer revenge but to improve the condition of criminals so that they can be useful and useful⁷. Third, research by Asiyah Jamilah with the title "Social Work Crime: Policies for Overcoming Prison Overcrowding" the focus of this research is to find out whether social work punishment can be an appropriate alternative for dealing with prison overcrowding, where social work punishment is expected to avoid or at least minimize negative impacts. from massive efforts at imprisonment and can be an appropriate alternative to overcome the overcrowding that occurs in Indonesia⁸.

Social work criminal supervision policy in reforming criminal implementation law as the *ius constituendum* above. The concept of social work crime is a crime in the form of carrying out social work by a convict in society without receiving wages, based on the requirements regulated by statutory regulations and court decisions which contain the term of the crime and the place of execution of the crime⁹. In this research, based on the problems above, the problem can be formulated, namely, what is the social work criminal supervision policy from the perspective of reforming criminal implementation laws?

2. Methods

In this research, normative juridical research is used, namely the doctrinal method¹⁰. To examine the application of rules or norms in positive law¹¹. Apart from that, it is to take an inventory of positive law, discover legal principles and doctrines, synchronize existing laws

⁵ Teafani Kaunang Slat, "Sanksi Pidana Kerja Sosial Terhadap Tindak Pidana Ringan Sebagai Upaya Pembaharuan Hukum Pidana Nasional," *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 4, No. 2 (2019): 352-60.

⁶ Renaldi Markus Larumpa, "Saksi Pelaku Yang Bekerjasama Pada Pengungkapan Kasus Tindak Pidana Pembunuhan Berencana Dalam Sistem Peradilan Pidana (Studi Putusan Nomor: 798/Pid.B/2022/Pn.Jkt.Sel)" (Universitas Khairun Ternate, 2024).

⁷ Lindsey L Runell, "Becoming A Social Work Professional After Incarceration," *Journal Of Social Work* 20, No. 3 (2020): 307-20.

⁸ Lindsey L Runell.

⁹ Maria Ulfah, "Pidana Kerja Sosial, Tokyo Rules, Serta Tantangannya Di Masa Mendatang," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 10, No. 3 (2021): 517-35.

¹⁰ Ani Purwati, *Metode Penelitian Hukum: Teori Dan Prakte* (Surabaya: Cv. Jakad Media Publishing, 2020).

¹¹ Johnny Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normative* (Malang: Bayumedia Publishing, 2006).

and regulations and conduct research by reviewing and reviewing various existing literature¹². With the first several approaches, the Legislative Approach is to understand the hierarchy and principles in statutory regulations. Second, a historical approach is taken to understand historical values¹³. Third, the comparative approach is a way of understanding law or a way of conducting research and scientific studies to gain knowledge about law¹⁴. The comparative function of law is similarities and differences¹⁵. The fourth Conceptual Approach is carried out by studying the concepts, theories and opinions of experts that are related to the object under study, and reviewing the concepts, theories and opinions of experts¹⁶.

This legal material is the basis for researchers to look for legal materials to fulfill answers to this research problem, both primary and secondary legal materials. Primary legal materials Law Number 1 of 2023 concerning Criminal Code. Meanwhile, the secondary legal materials in this research are all publications about law including textbooks, legal dictionaries, legal journals, and comments on court decisions and research results, works from legal circles and so on. Meanwhile, the technique for collecting legal materials is carried out after the research issue has been determined, then the researcher carries out a search to look for legal materials that are relevant to the issue at hand, namely the Social Work Criminal Supervision Policy from the Legal Reform Perspective of Criminal Implementation.

3. Results and Discussion

3.1. Social Work Criminal Supervision Policy in the New Criminal Code

The policy of social work punishment supervision in Article 85 paragraph (8) of the New Criminal Code states that the supervision of social work punishment is carried out by the prosecutor and the guidance is carried out by the community supervisor. Because the explanation is still general in nature, it is necessary to analyze the legal policy of social work punishment supervision by the prosecutor. Because the implementation of social work punishment is very different from imprisonment or parole and leave before release. So, supervision is very important to determine whether a convict can carry out social work punishment or not. Because if the convict does not fulfill all or part of the obligation to carry out social work punishment without a valid reason, then the convict is ordered to repeat all or part of the social work punishment, serve all or part of the imprisonment punishment which is replaced by social work punishment or pay all or part of the imposed fine which is replaced by social work punishment or serve confinement punishment as a substitute for the unpaid fine as stipulated in Article 85 paragraph (7) of the New Criminal Code.

The legal consequences for convicts who without a valid reason do not carry out all or part of their social work punishment need to be seen under proper supervision by an ideal institution. Because the legal consequences cannot be realized or implemented if the

¹² Irwansyah, *Penelitian Hukum Pilihan Metode & Praktik Penulisan Artikel* (Yogyakarta: Mirra Buana Media, 2021).

¹³ I Made Pasek Diantha, *Metode Penelitian Hukum Normatif: Dalam Justifikasi Teori Hukum, Cetakan Ke-1* (Jakarta: Prenada Media Group, 2017).

¹⁴ Bernard Arief Sidharta, *Refleksi Tentang Struktur Ilmu Hukum* (Bandung: Mandar Maju, 1999).

¹⁵ Isti Latifah Astri Et Al., "Perlindungan Hukum Terhadap Justice Collaborator Dalam Tindak Pidana Narkotika," *Indonesia Law Reform Journal* 1, No. 1 (2021): 32-49.

supervision model applied is not running well. The Attorney General's Office as an institution for supervision of social work punishment, as explained above, seems to need to be re-analyzed considering that the Attorney General's Office has quite dominant authority in the criminal justice system.

The legal policy of social work criminal supervision by reforming the criminal implementation law to achieve law enforcement, justice and the purpose of punishment by considering all aspects from the perspective of victims, perpetrators and society. Thereby removing the negative stigma associated with punishment for prisoners, and recognizing the important role that social work plays in the ongoing transformation, from prison to law-abiding citizens. To date, the criminal supervision model of social work conducted by the prosecution has not been further elaborated. Therefore, to ensure that social work criminal supervision can be implemented properly, a legal policy on social work criminal supervision is needed. In addition, an in-depth analysis of the supervision model by the prosecutor's office is needed to ensure that social work punishment can be implemented in the future in an efficient and effective manner.

In the realm of criminal justice, the application of the principle of subsidiarity is very important to ensure fair treatment in the legal system. Subsidiarity means that lesser penalties should be favored for certain cases, taking into account the unique circumstances of each case. These include the severity of the offense, the background of the individual, and the potential for rehabilitation. This policy aims to tailor interventions and punishments to the needs of individuals and their specific situations, thus ensuring that the law serves not only as a tool of retribution, but also as a means of rehabilitation and reintegration.

The principle of subsidiarity emphasizes that severe punishment such as imprisonment should be the last resort, after other alternatives such as social work punishment have been considered and found inadequate. The implementation of this principle in the supervision policy of community service punishment by the Prosecutor requires a clear framework and mechanisms that ensure fair treatment for all convicted persons. This includes transparent, accountable and evidence-based supervision, as well as complaint and appeal mechanisms for convicts who feel they have been treated unfairly.

The principle of subsidiarity, which states that a light sentence is sufficient for some cases, is recognized in criminal law for sentencing. As the current implementation of punishment is not in accordance with this concept, it is difficult for convicts to claim their rights due to unresponsive infrastructure. Changes in criminal law will be faced by a country without considering the time context of a generation so that it is not only the responsibility of the current generation, but also future generations. Therefore, the ideal model of supervision of social work punishment is the hope of all parties, considering that the implementation of social work punishment is very different from the implementation of punishment carried out in correctional institutions. This is because social work convicts carry out work outside the prison as a punishment for committing a criminal offense, so that in carrying out work outside the prison, an ideal concept or model of supervision is needed. Therefore, realizing the ideal

supervision model is also strongly influenced by the institution that implements social work punishment¹⁷.

The policy of giving supervisory authority to Bapas is not without reason, considering that Bapas does have a supervisory function as well. However, in order for this idea to be realized, criminal law policy is needed related to the reform of criminal implementation law. The renewal of criminal implementation law can be done by amending the criminal procedural law and implementing regulations of the New Criminal Code as well as other technical regulations. Correctional Center or often known as Bapas is an institution that provides assistance to clients who are outside the correctional institution. The policy of social work criminal supervision by Bapas must be directed towards the ideal supervision model offered, namely direct and indirect supervision. This explanation can be classified as follows:

1. Direct supervision to ensure that convicts actually carry out social work punishment in the field, as explained in Article 85 of the New Criminal Code that the implementation of social work punishment is carried out in hospitals, orphanages, nursing homes, schools or other social institutions, which are adjusted to the profession of the convict.
2. Indirect supervision of social work convicts is carried out by coordinating with leaders or heads in various institutions such as hospitals, orphanages, nursing homes, schools, or other social institutions and can use information technology-based supervision (GPS).

The above supervision models cannot be carried out by prosecutors at the same time considering that prosecutors have a lot of authority. This is the reason why social work supervision can be given to Bapas or integrated with Bapas. So that the purpose of punishment can be achieved to realize justice. Because social work punishment (*pidana kerja sosial*) is one type of criminal sanction. The authority of the Prosecutor in conducting direct supervision of social work punishment, in general, is also related to the readiness of the defendant to work, which is focused on improving public safety and changing the way of thinking and behavior of the defendant¹⁸.

An ideal supervision policy cannot be realized without the support of a supervisory institution that has adequate management, human resources and supervisory standards including supervisory facilities and infrastructure. In the supervision of perpetrators of social work crimes, although currently in the New Criminal Code, the supervision of social work crimes is given to the prosecutor's office, but that does not mean we cannot analyze the implementation of such supervision in the future. This framework arises as a result of the authority of the prosecutor's office which is quite dominant in criminal justice, so that the supervision of social work crimes certainly adds to the prosecutor's authority and further exacerbates the enforcement of justice.

¹⁷ Widya Amanda, "Pidana Kerja Sosial Dalam Pembaharuan Hukum Pidana Nasional."

¹⁸ Dede Tri Nugraha Amir, "Studi Perbandingan Sanksi Pidana Kerja Sosial Sebagai Alternatif Pidana Perampasan Kemerdekaan Jangka Pendek Di Belanda Dan Inggris Sebagai Upaya Pengembangan Sistem Pemidanaan Di Indonesia."

3.2. Ideal Model of Social Work Criminal Supervision Perspective of Criminal Implementation Law Reform

The ideal form of social work punishment policy that can be applied in Indonesia is the availability of a social work punishment supervision model and a more specific formulation of social work punishment supervision. In addition, it is necessary to prepare forms of supervision of social work punishment as well as the formulation of other additional provisions to maximize the implementation of social work punishment in Indonesia. Supervision of social work punishment can determine the quality of law enforcement and the effectiveness of the implementation of social work punishment in the future. Because the supervision is oriented towards the individual criminal who is sentenced to social work punishment to avoid negative impacts such as being labeled as a criminal by the community, losing self-confidence so that the convict has the confidence that is needed in the process of integration into society¹⁹.

The ideal supervision model is an examination process based on the symptoms that occur, which is carried out by examining, measuring or assessing the extent to which existing regulations run effectively and efficiently in its implementation in accordance with the program design or planning that has been determined. Because the substance of criminal implementation is not yet integral, this has implications for the weak supervision of criminal implementation, including the concept of supervision of social work punishment in the future. Therefore, the implementation of social work punishment needs to be carefully planned by the government so that it can be effective and effective, both in terms of implementation, the place of implementation, the needs of the community and the ability of the convict. The supervision of social work punishment aims to:

1. Obtain information whether the technical implementation of social work punishment is carried out in accordance with the plan and court decision.
2. Obtaining feedback to support policy, planning, and implementation of judicial duties.
3. Prevent irregularities, maladministration and inefficiency in the implementation of social work punishment.
4. Assess and evaluate the performance of social work convicts.

The ideal supervision model by the right institution is also related to the design and planning of the program in question, namely that social work punishment can be carried out in hospitals, nursing homes, orphanages, educational institutions, social institutions or other community institutions. Therefore, the supervision conducted can provide feedback, meaning that if what is done is not in accordance with the plan or there is a deviation, it can be immediately corrected or adjusted in accordance with Article 85 paragraph (7) of the New Criminal Code²⁰.

Thus, the reformation of criminal implementation law is carried out to present a paradigm as an ideal model of social work criminal supervision. This is intended so that new types of punishment such as social work punishment can be implemented properly and

¹⁹ Lindsey L Runell, "Becoming A Social Work Professional After Incarceration."

²⁰ Widya Amanda, "Pidana Kerja Sosial Dalam Pembaharuan Hukum Pidana Nasional."

effectively without causing various new problems in criminal law enforcement and this becomes *ius constituendum* in formulating ideal institutions in conducting supervision of social work punishment. As part of social work punishment, criminal offenders are allowed to perform useful social tasks as an effort to realize that the actions they commit are wrong and harm others. This gives offenders the opportunity to improve themselves and their social skills and become valuable contributors to society.

The ideal model of social work criminal supervision, it seems necessary to first understand the position of Bapas in our current criminal justice sub-system, this is necessary to understand the authority of Bapas and includes the supervision of prisoners which has been carried out through community supervisors. In addition, some of the authorities of Bapas seem to be very relevant in conducting supervision of social work punishment. Supervision of criminal implementation also involves cooperation between various institutions in the implementation of social work punishment which is very necessary. Cooperation between the police, prosecutors, judges and Bapas in ensuring the implementation of social work punishment in accordance with the law and the principles of justice. In addition, collaboration with independent institutions, both government and private, is also important to ensure that the supervision of social work is objective and not influenced by political pressure or other interests²¹.

The history of Bapas in conducting supervision of prisoners so far is also known by the existence of prisoners who get leave before release whose guidance and supervision are carried out by Bapas. It remains to be seen how the human resources of Bapas are strengthened through legal policies on the implementation of social work punishment. This is actually done to ensure that social work punishment can run well in accordance with the purpose of punishment, and does not cause various new problems in the implementation of social work punishment. Therefore, implementing regulations or technical regulations regarding social work punishment must be formulated as soon as possible so that it is clearer and does not cause paradigm speculation in criminal law.

Based on several authorities above, it shows that Bapas can be given the authority to supervise social work punishment. Because this social work punishment cannot run well if the supervision model is not carried out by an institution that can actually conduct supervision. Therefore, the provision of social work punishment in the context of supervision should be handed over to Bapas. Regarding the supervision model, it can be developed through direct supervision and technology-based supervision. Community guidance will be carried out by Community Counselors. Prisoners try not to commit the same crime again through community guidance. In the process of law enforcement, community counselors have certain responsibilities, such as the police, prosecutors, judges, or lawyers who are components of the criminal justice system, as well as community counselors.

When social punishment is actually applied, without formulating a supervision format because this is also related to the institution that functions as the executor of the criminal and marks the end of the criminal justice system. However, policies and legislation are needed that

²¹ Teafani Kaunang Slat, "Sanksi Pidana Kerja Sosial Terhadap Tindak Pidana Ringan Sebagai Upaya Pembaharuan Hukum Pidana Nasional."

can modify the law of criminal implementation. When discussing social work punishment or other types of punishment that are in accordance with the sense of justice of the community, caution is needed in implementing it. As a result, society must accept the fact that there are criminal offenders working in their environment and refrain from obstructing the implementation of social work punishment. It is very important to consider the supervision component when applying community service penalties because if the penalty is applied without supervision, it will provide additional challenges for criminal law enforcement. A key component to achieving social reintegration and the restoration of social order is the proactive involvement of the community and individual prisoners²².

The policy of reforming criminal enforcement law is to regulate the methods of implementing criminal law, including the Criminal Procedure Code (hereinafter referred to as KUHAP), other technical regulations, and regulations governing the use of social work punishment. This element can be compared with several other countries that have institutionalized social work punishment, because the Netherlands uses the GPS electronic device to monitor the implementation of social work punishment which is supervised by a special team and direct supervision. The implementation of social work punishment, institutions that have a smaller burden such as Bapas are very relevant in conducting supervision of prisoners in Indonesian criminal justice, but an ideal supervision model needs to be formulated. If we analyze the practice of implementing social work punishment in the Netherlands, the authority is in the hands of Reclasing. This body will ensure that convicts carry out social work punishment that is appropriate and as far as possible related to the criminal offense committed. This body is also obliged to report the results of the implementation of social work carried out by convicted social workers to the prosecutor's office²³.

The Reclasing Institute in the Netherlands can be compared to Bapas, which is under the Ministry of Law and Human Rights, so that Bapas has relevance in conducting supervision and guidance of social work convicts, considering that social work is carried out outside prison. Direct supervision seems to be the ideal thing in supervising social work punishment. It is possible for Bapas to conduct supervision properly, considering that Bapas does not have much authority. Of course, based on their capabilities, correctional institutions cooperate with outside parties to assist the reintegration of prisoners. Of course, this social work punishment functions as a substitute for punishment and as a substitute in terms of inmate development.

The result of supervision by Bapas can be in the form of suggestion and recommendation regarding the convict without valid reason does not perform all or part of social work punishment, the convict is obliged to repeat all or part of social work punishment, serve all or part of imprisonment punishment replaced by social work punishment and pay all or part of fine punishment replaced by social punishment or serve confinement punishment as a

²² Habibah Mutiara Trianio, Moch Zaenal Hakim, And Enung Huripah, "Pemenuhan Hak Pengasuhan Bayi Oleh Narapidana Perempuan Di Lembaga Pemasarakatan Perempuan Kelas Ii A Tangerang," *Peksos: Jurnal Ilmiah Pekerjaan Sosial* 19, No. 1 (2020): 99-112.

²³ Lindsey L Runell, "Becoming A Social Work Professional After Incarceration."

substitute for unpaid fine punishment as stipulated in Article 85 paragraph (7) of the New Criminal Code²⁴.

The importance of supervision on the implementation of criminal punishment is to prevent the abuse of authority by the criminal implementing agency. The supervision of social work punishment includes monitoring, evaluation, and control mechanism on various stages of social work punishment implementation. A strong and effective criminal implementation supervision arrangement will contribute to the creation of a criminal justice system that is more fair, humane, and in accordance with the values of justice and human rights. However, the concepts that must also be prepared in the implementation of supervision are:

1. The mechanism used if a person is deemed not fulfilling all or part of the obligation to carry out social work punishment.
2. Whether the prosecutor as the executor of the decision can directly issue an administrative decision based on the supervision conducted by Bapas which changes the form of punishment without any order from the judge, or the judge must decide after receiving a report from the prosecutor and Bapas.
3. The mechanism is related to the validity of the reason because if Bapas considers that the convict is unable to carry out the social work punishment without a valid reason, then the validity of the reason must be proven by listening to the defense of the convict.

Based on the concept in the ideal model of social work punishment supervision described above, it shows that the supervision of social work punishment by Bapas is very possible. Considering that the reformation of criminal implementation law has not been formulated further procedurally and the format of implementation and supervision of social work punishment. The concept of supervision of social work punishment by Bapas is an offer based on the discussion above which shows that prosecutors are too dominating criminal justice. Considering that this social work punishment is carried out outside the correctional facility, Bapas through community supervisors is very relevant in conducting supervision of social work convicts by trying to directly ensure the implementation of social work punishment. Bapas is one of the branches of the justice system tasked with assisting juvenile and adult clients as prisoners in building their lives and livelihoods. The proposed supervision model should support restorative justice, which focuses on restoring relationships between offenders and victims and the community. Criminal social work provides opportunities for offenders to improve themselves and contribute positively to society, which can reduce stigma and assist the reintegration process. The authority of Bapas should be increased and clarified so that supervision can be carried out effectively. The principle of justice requires that supervision by Bapas is not just a formality but provides real support for convicts in undergoing social work punishment²⁵.

²⁴ Ade Adhari, *Pembaharuan Sistem Hukum Pelaksanaan Pidana* (Yogyakarta: Deepublish, 2020).

²⁵ Anis Widyawati, Dian Latifiani, And Heru Setyanto, "Urgensi Pengaturan Pengawasan Pelaksanaan Pidana Dalam Pembaharuan Hukum Pidana Nasional," *Hukum Dan Politik Dalam Berbagai Perspektif*, 2023, 90-122.

In the implementation of supervision, every convict must be treated equally, without any special or discriminatory treatment. Supervision must be conducted based on the same standard for all, ensuring that each convict has the same opportunity to succeed in the social work punishment program. Offenders serving community service must be held accountable for their actions during their sentence. The supervision system should include mechanisms to monitor and assess the performance of convicted offenders, as well as provide fair and proportional sanctions in the event of violations. Social work sentences aim to rehabilitate and reintegrate offenders into society. Good supervision ensures that the offender serves a punishment that educates and provides an opportunity to improve. In addition, community involvement in supervision helps to create an environment that supports offender recovery and provides a broader sense of justice. By giving offenders the opportunity to improve themselves through social work, the community is also expected to provide support and opportunities for offenders to evidence positive changes in their behavior²⁶.

Thus, social work convicts can carry out their duties under maximum supervision with the aim of realizing effective implementation of social work punishment. However, in order for Bapas to carry out its duties properly, what needs to be maximized are Bapas regulations, Bapas personnel, infrastructure, costs and awareness of inmates and their families. In addition, Bapas in carrying out supervision of social work punishment can coordinate with prosecutors who have the function of implementing court decisions that have permanent legal force, and agencies where inmates work.

4. Conclusions

The social work criminal supervision policy in Article 85 paragraph (8) the New Criminal Code states that social work criminal supervision is carried out by the Prosecutor and guidance is carried out by community counselors. Because the explanation is still general, it is necessary to analyze the legal policy of social work criminal supervision by the Prosecutor. Because the implementation of social work sentences is very different from prison sentences or parole and leave before release. Because supervision really determines whether a convict can carry out social work or not. The ideal model for social work criminal supervision in reforming criminal enforcement law is *ius constituendum*, namely formulating a model for direct supervision and technology-based supervision using a Global Positioning System (GPS). However, the social work criminal supervision model above cannot operate effectively without the support of a supervisory institution. Supervision of criminal social work can be carried out by the Fathers and in coordination with the Prosecutor and the institution where the convict works. Because the Reclustering institution in the Netherlands can be compared with the Correctional Center (Bapas) under the Ministry of Law and Human Rights. Reform of criminal implementation laws can be carried out through further regulations regarding the implementation of the New Criminal Code, and other technical regulations implementing and supervising social work crimes.

5. Reference

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