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Genuine paradigm of criminal justice: rethinking penal reform within Indonesia New Criminal Code

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ABSTRACT

This study examines the harmonization of criminal law with societal socio-cultural aspects, elucidating the pursuit of substantive justice at normative and theoretical levels. Achieving concordance between legal norms and community culture necessitates comprehensive law reform – an imperative alternative, particularly for nations with legal histories shaped by foreign legal traditions. Focusing on the evolution of Indonesian criminal law post the enactment of the New Criminal Code, this research unveils fundamental shifts in values, norms, and paradigms. The transition from colonial legal substance to a modern, authentic framework is evident in articles implicitly prioritizing substantive justice, aligning with Indonesia's philosophy and socio-cultural values. Over time, Indonesia has phased out colonial law, integrating living law into the national legal fabric. The paradigmatic shift, aimed at infusing Indonesian law with a distinctive national character, presents conditions, advantages fostering substantive justice, and challenges in formulation and implementation. Despite complexities, the 63-year process of drafting the New Criminal Code has yielded profound results, enhancing the legal system. This transformative journey signifies a deliberate departure from colonial legal paradigms, embracing a framework resonating with Indonesian values. The shift underscores Indonesia's commitment to substantive justice and resilience in overcoming challenges tied to legal reforms.

IMPACT STATEMENT

The journal article, 'GENUINE PARADIGM OF CRIMINAL JUSTICE: RETHINKING PENAL REFORM WITHIN INDONESIA NEW CRIMINAL CODE', holds vital public interest. As Indonesia undergoes substantial legal changes, this research explores the potential impact of the new criminal code on individual rights and the justice system. This work serves legal scholars, practitioners, and the general public alike. It advocates for transparency, fairness, and human rights in the criminal justice system, fostering informed discussions among policymakers, legal experts, and society at large. The article's relevance extends beyond Indonesia; it contributes to the global dialogue on penal reform and human rights. By examining the Indonesian context, it offers insights that can benefit nations grappling with similar justice system challenges. In an era of evolving legal systems worldwide, this article plays a crucial role in promoting informed discourse and shaping the future of criminal justice in Indonesia and beyond.

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1. Introduction

The reification of national law reform, as an endeavor to establish the relevance of normative products to community culture, serves as a strategic agenda in disseminating Indonesianism. The historical trajectory of being under Dutch, British, and Japanese rule since the 16th century has witnessed the transformation of the 'Indonesian nation' from a diverse array of small feudal kingdoms into a unified entity forged in solidarity amidst suffering and subjected to legal engineering during the colonial period (Wirabakto, 2022). The pivotal role of customary law, coexisting with Hindu-Buddhist and Islamic law for

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more than a millennium, was marginalized due to the principle of concordance enforced by the Dutch government (Kuswardani et al., 2022). Consequently, the evolution of Indonesian legal culture ensued, mirroring Dutch European-Continental law in various domains, including criminal, civil, administrative, and procedural law (Arifin & Primadianti, 2023).

The political transition of law, manifesting the interest in producing substantive justice and national character, unfolded in two significant momentums since independence. Firstly, the proclamation of 17 August 1945, and the subsequent constitutional ratification of the 1945 Constitution successfully established, de facto, a distinct state and legal system – the Indonesian legal system (Utama, 2021). However, to ensure the stability of the nascent state, the government found it necessary to temporarily adopt colonial laws until new national laws could be established. Secondly, the political reform in 1998, marking the end of the New Order authoritarian era and initiating what was then termed 'regulatory reform', aimed at updating the national legal system and advocating for a paradigmatic shift away from the entrenched colonial legal framework within the national legal system (Aspinall & Fealy, 2010).

In contrast to the political transition of law, a paradigmatic shift in Indonesian criminal law has not transpired since before the era of independence (Tongat, 2022). The Indonesian Criminal Code is a derivative of the Wetboek van Strafrecht Voor Nederlands-Indië (WvS-NI) imposed by the Dutch colonial government in 1918 (Wirabakto, 2022). Apart from lagging behind societal developments, the WvS-NI was fundamentally rooted in a colonial paradigm aimed at undermining the Indonesian nation for the benefit of Dutch colonialism and imperialism during that era (Najih, 2018).

Crucially, the WvS-NI was constructed based on the Penal Code in Continental Europe, which reflected the values of Western societies. Conversely, Indonesia, as an Eastern nation, espouses different values (Arifin & Primadianti, 2023). The disparity in value content between the Indonesian Criminal Code and its populace has resulted in a perceptible gap in the sense of justice and a neglect of genuine local wisdom within national law (Butt & Lindsey, 2020). Since 1963, the ongoing codification of genuine values aimed at shifting the paradigm of colonial criminal law in Indonesia culminated in December 2022 with the completion of the New Criminal Code, embodying a complex array of ideas towards substantive justice (Yusliwidaka et al., 2023). The primary impetus behind the enactment of the new Criminal Code was the intrinsic incorporation of national values as a replacement for the colonial character in the national legal system.

The genealogy of criminal law thought is constructed within three interrelated domains – paradigm, substance, and legal technicalization (Wirabakto, 2022). The critique of these three domains represents a comprehensive assessment of criminal law thought in the Continental European tradition, with a holistic comparison to Indonesian criminal law thought (Nurdin & Turdiev, 2021). Firstly, the paradigmatic character in WvS-NI boils down to legism, reflecting a legal orientation adrift from unwritten norms as the main and pure source of law. Nuances of legism limit the notion of 'law' to a formal order of norms, stand on the authorization of the state, and generalize the subject of law to be presumed to know the written law (presumptio iures de jure). Normatively, legism is standardized in Article 1(1) WvS-NI, expressly stating: 'No act shall be penalized unless the strength of the criminal laws in existing legislation existed when the act was performed' (Mallarangan, 2021). This principle has historical roots in the teachings of Friedrich von Feuerbach's logical positivism, encapsulated in the famous adagium: '*nullum crimen sine poena legali*' (Nurdin & Turdiev, 2021).

Secondly, the substance domain, which propounds the legism paradigm, is constructed with criminal law values in WvS-NI that have positivistic nuances. The values in question include legal purification (written law as the sole source of punishment), deterministic, objective-atomistic, dualistic, autonomous, and reductionist. In a historical perspective, the values characterizing the substance of WvS-NI are constructed according to the Cartesian-Newtonian concept and Auguste Comte's positivism (Lacerda, 2009). Within the norm, the WvS-NI articles categorize criminal offenses according to offenses and offenses, with each type of offense having a logical consequence on conviction. The substance of WvS-NI does not accept the infiltration of social aspects as an alternative to solving criminal acts, making it reductionist and pure (Diala, 2017). In the pure theory of law, the sterilization of criminal law from meta-juridical aspects is an urgent form of legal rationalization to ensure certainty and enforcement authority, creating social order (Dziadzio, 2021).

Thirdly, the domain of legal technicalization serves as the operational aspect through which the paradigm and substance of values are realized in society. The technicalization of Indonesian criminal law in

WvS-NI distinctly prioritizes the aspect of certainty, as outlined in Article 1(1). Aligned with the Continental European tradition of the classical era, judges in WvS-NI are not afforded leeway for legal innovations but are rather functionalized as conduits of the law. The emphasis on legal certainty aspects in WvS-NI confines Indonesian law enforcement, leaving it unable to transcend the repercussions of positivism, such as the restricted capacity of judges to deviate from the law to achieve substantive justice (Adawiyah & Rozah, 2020).

Criticism of the three characterization domains in the genealogy of thought that constructs WvS-NI points to the inherent incompatibility of all three with the culture and perspective of the Indonesian nation concerning criminal law enforcement. Indonesia, as a multicultural nation, derives its genuine thought from two sources of zeitgeist – customary law and religious law, predominantly Islamic Sharia law (Tongat, 2022). The adoption of the paradigm, values, and technicalization of Continental European law through WvS-NI is deemed a 'historical imperative' that not only disregards social reality and genuine thought but also precipitates a crisis of substantive justice and expediency. The misalignment between Indonesian thinking and Continental Europe necessitated a transformation of values. The Indonesia New Criminal Code provides a meeting ground for these enhancements, facilitating a paradigmatic transition that encompasses all aspects of the genealogy of Indonesian criminal thought.

2. Research method

In this research, we employ a multi-faceted methodology to delve into the complex issues surrounding the genuine paradigm of criminal justice and the imperative for penal reform within the framework of Indonesia's new criminal code. Our study commences with an extensive review of legal documents, including the newly enacted Criminal Code (Law Number 1 of 2023), to acquire a comprehensive understanding of the legislative changes. Simultaneously, we conduct a systematic literature review of reputable law journals, academic papers, and legal literature to identify the theoretical underpinnings and practices in criminal justice and penal reform. By synthesizing existing knowledge, we identify theoretical frameworks that can shed light on the challenges and opportunities presented by the new criminal code in Indonesia.

Furthermore, qualitative research methods are employed to gather empirical data. A structured set of questions and discussion instruments are administered to a diverse sample of legal professionals, including judges, prosecutors, defense attorneys, and legal scholars, to assess their perspectives on the practical implications of the new criminal code and the need for penal reform. These questions allow for a systematic analysis of the stakeholders' viewpoints and contribute valuable qualitative insights to our research. By triangulating legislative analysis, literature review, and qualitative data, this research endeavors to provide a comprehensive analysis of the genuine paradigm of criminal justice within Indonesia's evolving legal landscape. This methodology aims to offer critical insights into the prospects and challenges of penal reform, facilitating a theoretically evidence-based discussion within the broader discourse on criminal justice reform in Indonesia and its alignment with international norms.

3. Result and discussion

3.1. Values in law: how they influence and shape rules

Law, at its fundamental level, can be conceptualized as a superstructure shaped by values (Henham, 2022). These values offer an ideal and rational representation of justice and the intentional organization, exercise, and control of power at both public and private levels (Tamanaha, 2010). The expression of values is not confined to formal law but is also evident in people's expectations, behaviors, actions, and culture (Daci, 1997). Values are cultivated from the accumulation of thoughts about truth and goodness, manifesting as a cultural heritage maintained and concretized within norms (Witteveen, 2003). However, this concept does not imply that values, or their associated laws and principles, are mere reflections of cultural heritage. Rational values, furthermore, possess the resilience to transcend cultural boundaries, making the relevance of truth consistent for each individual beyond the confines of cultural origins, such as human values. In the perception of modernity, which blurs the boundaries of cultural localism, values

accumulate at the level of the nation and state, allowing the laws in force in a country to be interpreted as a reflection of the values of its legal subjects, characterized by accumulation, eclecticism, and generality. Moreover, modernity introduced egocentric universalism and later proved inhospitable to local values. Cultural acculturation does not inspire the establishment of norms; rather, the acculturation of norms alienates cultural values themselves.

Law, in its creative and flexible nature, employs values in various ways and forms (Stein, 2010). Values serve as a material source in contemplating the formation of norms to prevent arbitrary, capricious, or unreasonable power (Emilia et al., 2022). The subsequent value acts as a barometer in identifying the needs of the community, influencing the direction of law administration. This accumulation of values is referred to by Hans Kelsen as grundnorm, the abstraction of values at the highest level within the norm hierarchy (Celano, 2000). From this perspective, it is evident that the primary function of value is as a link between legal systems and societies, constituting the essence of the material aspect of the purpose of the law itself. The formulation of norms often requires arguments known as ratio-legis, with the essence of value providing a fundamental supply to the existence of these ratios.

An important principle of balance must be formulated in this context. The legal system and society cannot be constructed or sustained solely by referring to values expressed in general and abstract terms (Arifin & Primadianti, 2023). Nevertheless, the two cannot be harmonized if built solely on strict textual and normative rules. Instead, balance must be achieved through the linearity of rules at the levels of values, principles, precepts, and norms. An appropriate balance must recognize that norms and principles must serve as moral standards, measuring legal flexibility and accommodating society's concept of values. If achieved, this balance can identify the dangers arising from the absence of adequate rules or the existence of rules incongruent with the legal needs of society, such as rules adopted from other cultures.

The attainment of substantive justice in the process of law enforcement within a nation necessitates, first and foremost, ensuring a balance between norms and community values (Schmid, 2003). Equilibrium, in this context, implies that the entire legal structure, from the abstract to the most concrete, follows a cohesive 'line of command', with the grundnorm serving as the source for concrete norms (Celano, 2000).

The creativity and flexibility inherent in legal formation must guarantee the preservation and embodiment of grundnorm values at the level of technical norms, ensuring their continued authenticity. Consequently, ideal and rational laws should be independently crafted by making the values of society the primary source of intellectual wealth (Acciaioli, 2007). Adopting the values of other established societies is not a viable alternative, as it inevitably leads to imbalances and reduces justice to proceduralistic fairness. To maintain the concretization of these values, a nation must possess its own 'genuine paradigm of law'.

A reductive and partial perspective significantly hampers, and may even disrupt, the process of forming rechtsidee (fundamental values). Such a perspective is likely to be insensitive to the values prevalent in society, resulting in a flawed formulation of norms. The achievement of substantive justice becomes exceedingly challenging when left to the formulation of inadequate norms.

3.2. Genuine paradigm of criminal justice

The Oxford Dictionary defines criminal justice as the system of law enforcement directly involved in apprehending, prosecuting, defending, sentencing, and punishing those suspected or convicted of criminal offenses. Criminal law enforcement, being the most fundamental aspect of the legal order, is intricately linked to considerations of human justice. Lawrence M. Friedmann, in his work, delineated the achievement of justice in law enforcement across three domains: the substance of legal norms, law enforcement structures, and community legal culture (Handayani, 2012). The consistency of Lawrence M. Friedman's three legal domains in maintaining a balance of values and norms must be facilitated by the paradigm of criminal justice (Friedman, 2019). Like the value function that connects legal systems and societies, the paradigm of criminal justice serves as a link between values and norms in creating a balance of law enforcemen Similar to the value function that connects legal systems and societies, the paradigm of criminal justice acts as a link between values and norms in creating a balanced approach to law enforcementt (Daci, 1997). Furthermore, given that these values are genuine and extracted from the legal culture of a nation and will be concretized in criminal law, the connecting paradigm must also

be genuine. This concept is then referred to as the genuine paradigm of criminal justice. What does this mean?

Thomas Kuhn developed an analysis of science that views it as far from the objective pursuit of knowledge. In 'The Structure of Scientific Revolutions', Kuhn posited that science is characterized by a commitment to a scientific paradigm (Joshua, 2014). Kuhn formulates the paradigm as a fundamental image of what is the main problem of science at a certain time; normal science is a period of accumulation of knowledge, and scientific work will inevitably give rise to new works that cannot be explained by previous science or knowledge. The stage of crisis occurs when inconsistency (anomaly) increases and can only be resolved with a scientific revolution. The paradigm consists of a set of shared beliefs among a group of scientists about what the natural world is composed of, what counts as true and valid knowledge, and what sort of questions can be asked, along with the procedures that must be followed to arrive at the answers to these questions.

The criminal justice paradigm is formed as a crystallization of general truth values that have been rationalized, reflecting cultural thoughts and principles towards the criminal concept of a nation as a whole (Shari, 2022). Paradigm, as a cultural product and synthesis of thought in state life, has limitations on its applicable relevance. This restriction is formed from the cultural origin and dialectic of thought towards the reality of the society in which these values are explored (McCold, 2004). The criminal justice paradigm developed in the culture of Continental European societies has disparities with the Anglo-Saxon, Eurasian, and Middle Eastern paradigms. Therefore, the sovereign intersubjective reality in determining the paradigm is the state as a national identity. Every nation has the right to determine and must have its own criminal justice paradigm that is genuine and extracted from the values of the people living in the country.

The paradigm plays a pivotal role in criminal law enforcement across three dimensions: substantively, by guiding the formulation of legal norms; structurally, by providing a perspective for law enforcement officials in implementing norms; and in legal culture, by shaping people's perception of a sense of justice and the achievement of legal objectives that are implemented substantively and structurally. Consequently, the genuine paradigm, conceptually, represents an endeavor to explore the values of Indonesianism as a 'legal ideology', and functionally, it strives to bring the sense of justice, expediency, and certainty into a balance of normative and cultural dimensions.

The genuity of the criminal law paradigm is a fundamental element that directly influences the substance and technical aspects in the creation of justice, expediency, and legal certainty holistically. Paradigms determine value construction in the substance of norms and law enforcement, so the transition in the paradigmatic stage concerns an overall change of understanding of law nationally. With the transition of the criminal law paradigm from Continental Europe to the genuine paradigm, Indonesia presents a space for criminal law linearity with the sociological needs and understanding of the Indonesian nationIn essence, the authentic paradigm of the Indonesian nation necessitates formulation grounded in the evolving socio-cultural values inherent in Indonesian society. The adoption of foreign paradigms, stemming from historical burdens, runs the risk of yielding a legal system not only prone to falling short in attaining justice and utility but also of negating the existence of indigenous cultural values and wisdom integral to the Indonesian nation.

3.3. Previous indonesia's criminal justice paradigm: a legacy of colonial history

The criminal justice paradigm of a nation is represented normatively in the criminal code and the criminal procedure code. The criminal code law regulates the substance of the norms that are the basis for sentencing, while the criminal procedural law determines the behavior, procedures, and actions of law enforcement in enforcing these norms. In Indonesia, the penal code in force since independence is the Wetboek van Strafrecht voor Nederlands-Indië (WvS-NI), which was drafted and ratified by the Dutch Colonial government in Staatsblad No. 732 of 1915 and entered into force on 1 January 1918 (Butt, 2023). Substantively, the WvS-NI was adopted from the Wetboek van Strafrecht of the Kingdom of the Netherlands and was rooted in the paradigmatic values of Continental European societies (Tongat, 2022).

After Indonesian independence on 17 August 1945, urgent needs arising from Dutch military aggression I and II in 1946–1948 and the lack of established national stability required Indonesia to adopt

colonial laws that had been in force before. The enforceability of WvS-NI was affirmed by Article II of the Transitional Rules of the 1945 Constitution and Law No. 1 of 1946 concerning the Regulation of the Criminal Law, subsequently renamed as the Criminal Code (KUHP). Since 1958, the Criminal Code has been officially declared valid throughout Indonesia in its current form (Najih, 2018).

Historically, the Criminal Code imposed in Indonesia is undeniably a legacy of colonialism. WvS-NI was adopted based on the Royal Netherlands WvS, which had been in force since 1881, and the Kingdom of the Netherlands WvS was prepared based on the Napoleonic Penal Code enacted in France since 1810. The entire content, perspective, source of value, and procedural law procedures in the Indonesian Criminal Code are extracted from the culture of Continental European society in the 18th and 19th centuries (Meuleman, 2006). Therefore, the Indonesian Criminal Code, valid from 1918 to 2025, still adheres to the concept of retributive justice that prioritizes retribution. Ironically, legal transformations in Continental European countries have occurred, shifting the concept of retributive justice to a more modern one. The Netherlands Criminal Code of 1881 has undergone numerous changes and was last updated on 27 August 2014, while Indonesia continues to use the same Criminal Code for 103 years.

The criminal law paradigm in the Indonesian Criminal Code creates a significant gap between norms and culture, with limitations in the principle of legality. The nuances of Continental European positivism, oriented towards achieving legal certainty, standardize criminal acts only within the scope of what is explicitly regulated by law (Tamma & Duile, 2020). The penal values in the Criminal Code are formulated from the culture of Continental European Christian communities, resulting in sharp cultural disparities with Indonesian penal values rooted in Islamic law and customary law. This discrepancy leads to a reduction in the values of punishment and a true sense of justice. Furthermore, the influence of Continental European values from the 17th and 18th centuries has left the substance of the Criminal Code with a punitive tendency, still carrying the principle of retributive justice (Yolandika, 2022). In essence, the enactment of the Criminal Code has bound Indonesian criminal law to the paradigmatic system of Continental Europe, which was formed during the colonial era. While this enactment was the best option during the independence era to avoid a legal vacuum, it has become problematic as Indonesia's social, economic, and political conditions have evolved.

The influence of legism values deeply rooted in the Continental European legal tradition is pervasive and dominates normative nuances in WvS-NI as a derivative product of the French Penal Code. The legism paradigm is implicit in Article 1 (1) WvS-NI, limiting the definition of criminal acts solely based on written law. This paradigm characterizes the domains of substance, values, and legal technicalization in a linear manner that cannot be improvised. In the substantive domain, the legism paradigm views law as a procedural reality oriented towards the principle of legal certainty. Building on the principle of legality in Article 1 (1), WvS-NI objectifies criminal acts into the categories of offenses and crimes, without recognizing crimes beyond those stipulated in law (Tolkah, 2021). The substance of WvS-NI disregards pluralist legal reality, thus becoming a constraining space with acute reductionism nuances. The foreseeable consequences stem from the characterization of the legism paradigm in WvS-NI, leading to Cartesian-Newtonian philosophy and Comte's social positivism, both grounded in assumptions of scientism applicable to the social sciences, including criminal law.

Moreover, the legism paradigm imposes a stringent procedural rigor on the legal technical domain (Mallarangan, 2021). Procedural law, by constraining the creativity of law enforcement through limitations on legal intrusions and judge-made discoveries, stands in opposition to the pursuit of substantive justice. Judges are prohibited from analogizing, and the entire logical framework is constructed around the confinement of laws and regulations. The proceduralization of law enforcement results in mechanistic, deterministic, and static enforcement patterns. The clash between the demand for a dynamic, situational sense of justice and the cultural reality of a plural Indonesian society poses incompatible challenges for the legism paradigm.

It is imperative to acknowledge, however, that the development of Indonesian criminal law from the post-independence period until the amendments to the Criminal Code in 2022 witnessed several changes in both the substantive and technical domains. Substantively, adjustments were made to articles in the Criminal Code to align with the evolving needs of the community. Notably, 39 articles were removed from the 1918 version of the WvS-NI, with some being reorganized into various other laws and regulations. On the technical front, Indonesia enacted Law Number 8 of 1981 concerning the Code of Criminal

Procedure, replacing the Herzien Inlandsch Reglement and Reglement voor de Buitengewesten adapted from the Netherlands. Nevertheless, changes in substantive and technical aspects do not guarantee the attainment of substantive justice when the paradigm serving as the foundation of a generic legal understanding remains constrained by the spatial limitations of legism-positivism. Hence, the changes represent a 'partial improvement', as they do not fundamentally alter the legal character.

Driven by the necessity to bridge the gap between legal norms and the socio-cultural dimension of the Indonesian nation, which considers the historical aspects of WvS-NI as a colonial heritage product, the appropriate domain for change is a paradigm transition. With a shift in paradigms, the overall understanding of law undergoes a radical transformation, complemented by changes in substance and legal technicalization. These changes give rise to several new features in the Indonesian Criminal Code, guided by two main orientations: alterations to the basic principles of criminal law legism and the inclusive enrichment of Indonesian values.

3.4. Paradigm shift within penal reform: what really changes?

The reform of Indonesia's criminal law was initiated in September 1963, concomitant with the proposal to codify civil and commercial law (Tolkah, 2021). The decision to holistically revise the legal framework came in response to the inefficiency of extending the lifespan of the Criminal Code through partial revisions to achieve substantive justice (Lev, 1973). Prior adjustments to the Criminal Code, involving the excision of articles since 1946, aimed to eliminate discriminatory provisions no longer aligned with Indonesian values.

In contrast to previous partial changes, the transformation of the Criminal Code was conducted through comprehensive recodification, entailing the complete reorganization of its contents and the introduction of entirely new norms. Recodification encompasses changes in two dimensions: the normative and paradigmatic dimensions. Normatively, alterations are evidenced by the preparation of 37 chapters and 632 articles across two books – the first focusing on general rules and the second on criminal acts. Indonesia's New Penal Code redefines the distinction between and crimes as criminal offenses. The increased number of articles, exceeding the old Criminal Code's 569 articles, reflects the mission of consolidation and harmonization in Book I as an operator of modern criminal law. At the paradigm level, changes in the Criminal Code carry the mission of promoting the cultural values of the Indonesian nation as a source of orientative and substantive material law. The overall values normalized in penal reform shifted the previous paradigm of criminal justice to the genuine paradigm of criminal justice. This shift occurs with five main aspects.

First, decolonization of law by removing the nuances of colonialism and punitive nature from the old Criminal Code inherited from colonial traditions. Decolonization requires a replacement paradigm, which is then filled with the original values of the Indonesian nation with a corrective-restorative justice approach, describes the objectives and guidelines of punishment and contains alternative criminal sanctions. *Second*, democratization with active involvement of the community in drafting criminal law norms. This engagement is in accordance with the Indonesian Constitution, legal considerations, and the Constitutional Court's decision on related articles that must be drafted with meaningful participation. *Third*, consolidate criminal law while maintaining a number of provisions and thoughts in the old Criminal Code that have ideal relevance to national values and needs, as well as updating and placing new formulations in the codification of the Criminal Code. *Fourth*, harmonization of law carried out with the principle of adaptation to respond to the development of modern legal needs, without prejudice to living law. *Fifth*, modernization that replaces the classical philosophy of vengeance to an integrative philosophy that considers aspects of deeds, perpetrators, and victims of crime.

The genuity of the new paradigm within the Indonesian Criminal Code, encapsulating the five aforementioned aspects, was introduced during the formulation period as the paradigm of the balance of Pancasila values. The ideologization of nationality in Indonesia, encompassing socio-cultural pluralism, is consolidated in five articles representing the Pancasila values that embody the collective outlook on life of the Indonesian nation. These values, namely divinity, humanity, unity, democracy, and social justice, constitute the ideological foundation. The equilibrium established in the Criminal Code reflects the implementation of Pancasila as a legal ideology in Indonesia. In contrast to Continental European positivism and WvS-NI, criminal law in Indonesia is perceived as an entity inseparable from values; it is not value-free but a condition

perpetually intertwined with these values across all domains contributing to the creation of legal objectives (Ergashev, 2021). Therefore, Articles 51–54 of the Criminal Code affirm the purpose of punishment, representing a concrete form of ideologization of criminal law applied with a balanced consideration of values. This exemplifies the intrinsic beauty and authenticity of Indonesian criminal law.

Barda Nawawi Arief contends that the development of the New Criminal Code Concept is intricately linked to the idea and policy of constructing a national legal system grounded in Pancasila as the aspirational values of life. This implies that the reform of national criminal law should be motivated and oriented toward the fundamental principles of Pancasila, which inherently harbor a balance of values, ideas, and paradigms: (1) religious morals (divinity), (2) humanity (humanistic), (3) nationality, (4) democracy, and (5) social justice (Rofiq et al., 2019).

Law and society share a profound relationship, as articulated by Brian Tamanaha, who posits that law has a distinctive form of social life. Tamanaha introduces the Law-Society Framework, comprising two primary components. The first component encompasses two central themes: the notion that law serves as a mirror reflecting society and the idea that the function of law is to uphold social order. The second component is composed of three elements: custom/consent, morality/reason, and positive law (Tamanaha, 2010).

Criminal law and including the principle of legality, if it is to be called a science that can capture and follow change, and does not ignore values in the 'public sphere', it must reflect the 'general will', and the 'value system' which is on the criteria of the idea of balance. Barda Nawawi Arief called the idea of balance as the basic idea to be realized in the concept of the New Criminal Code oriented to the 'idea/principle of balance'. The ideas of balance are divided into five, including the following:

1. The idea of a monodualistic balance between the interests of society and the interests of individuals.
2. The idea of balance between social welfare and social defence.
3. The idea of balance oriented to the perpetrator/offender and victim.
4. The idea of a balance between 'legal certainty' and elasticity/flexibility, and 'fairness' A balance between 'formal' and 'material' criteria.
5. Balance of national values and global/international/universal values.

The characteristics of the eclectic criminal law paradigm, not consistently maintaining the linearity of transformation in certain legal systems throughout Indonesian history, whether civil law or common law, underscore the nation's pursuit of forging its own legal paradigm. Drawing on the concept of balance elucidated by Barda Nawawi Arief, the original paradigm was rooted in the equilibrium of Pancasila values. The transformation of Indonesia's criminal law paradigm in the New Criminal Code has led to numerous fundamental and substantive changes. The paradigm shift from positivism-proceduralism toward the paradigm of value balance grounded in Pancasila can be delineated in Table 1.

This transformational journey signifies a departure from traditional legal paradigms, embracing a distinctly Indonesian approach that harmonizes diverse legal influences while prioritizing the inherent values of Pancasila. The evolution towards a value-centric paradigm reflects a commitment to a legal framework that aligns with the cultural and socio-political aspirations of the Indonesian nation.

Conclusively, the character of the original paradigm of Indonesian criminal law can be shown from four important components in the New Criminal Code, including the following (Table 2).

The explanation of the four important components of the Criminal Code can be classified into two main parts, namely the integration of living law and the setting of goals in prosecution. These two parts are the main pillars that support all aspects in the transformation of the Indonesian criminal law paradigm.

Table 1. Fundamental characteristic on paradigm transformation after Indonesia New Criminal Code.

Paradigm characteristic	Transformation highlights
Positivism-Proceduralism	Shift to Value Balance of Pancasila
Legal System Variability	Consolidation of a Distinct Indonesian Legal Paradigm
Historical Inconsistency	Estabilishment of a Coherent and Nationally Rooted Legal Framework
Civil Law and Common Law Influences	Systhesis into a Uniquely Indonesian Legal Identity
Pancasila as the Guiding Force	Pancasila Values Anchored as the Core Legal Ideology

First, authority of living law. The diversity of ethnicities, cultures, languages, and beliefs in Indonesia directly impacts the emergence of diversity in all aspects of life, politics, economics, and law in society (Syamsudin & Apha, 2020). Legal pluralism originates primarily from a pluralistic society and interacts with each other following their identities (A. Salim, 2013). In Indonesia, cultural acculturation between indigenous peoples and Europeans throughout the era of colonialism has made legal norms disparity with local culture. With these realities, the need for legal pluralism is inevitable. In recent developments, the tendency of national law reform shows a response to diversity of social norms by giving recognition to living law through the new criminal code.

Previously, the study of the relevance of law to socio-cultural diversity has been a long debate. The main reason is the rigid implementation of Article 1 of the Dutch Colonial Criminal Code, which emphasizes the establishment of criminal law norms derived only from the law. It specifically states that, '*No act be penalized unless the strength of the criminal laws in existing legislation existed when the act was performed*'. The inheritance of the Dutch Criminal Code makes the evaluation base for criminal acts only have a single source, namely the written law. This condition causes a disregard for the values of the Indonesian nation, and incompatibility between legal norms and the social dimension of the society in which it is applied. In actually, legal texts of a nation cannot be taken over and subsequently implemented in another nation, particularly if socio-cultural values of the two nations differ (Benda-Beckmann & Benda-Beckmann, 2013). Textual gaps in the implementation of a nation's legal products against other nations result in legal disruption to the enforcement process. Substantive justice becomes unattainable and boils down to procedural justice. Nevertheless, well in advance of the colonial epoch, Indonesian society harbored a wealth of indigenous sagacity and intricate customary legal frameworks. Customary law, originating from the habits or traditions of a community, held binding force within specific social cohorts, operating autonomously of the national legal framework. The socio-historic tapestry of Indonesia, characterized by a mosaic of ethnicities, kingdoms, and indigenous collectives, interwoven with the assimilation of cultural values stemming from Hinduism, Buddhism, and Islam, established customary law as a social verity that sculpted the legal ethos of Indonesian society preceding the colonial era. Snouck Hurgronje's 19th-century investigation systematically cataloged customary law regions into 19 distinct divisions, as delineated in Table 3 (Von Benda-Beckmann, 2019).

Table 2. Four important components in Indonesia New Criminal Code.

Component	Explanation
Principles of material legality	Indonesia's New Criminal Code provides recognition for the enforceability of living law as a source of punishment, based on Article 2 Paragraph (1) of Law No. 1 of 2023. Unlike positive law that is carried out using the principle of formal legality, living law is open to the use of the principle of material legality, so that it becomes an instrument in achieving justice and substantive expediency.
Customary law as living law	Article 2 Paragraph (1) of the Criminal Code and its explanations, ensure the enactment of customary law as a living law, by first obtaining regulations through Government Regulations and Regional Regulations. The principles of codification and unification of legal sources that characterize the paradigm of positivism are structurally deconstructed with the integration of living law in the criminal law system.
Purpose of punishment	Enforcement of criminal law in the New Criminal Code is not carried out in procedural purposes, but rather substantial. Article 51 of the Criminal Code places criminal objectives, including Social Protection Values, Resocialization (Improvement) Values, Conflict Resolution Values, Honesty and Truth Values, and Human Values. This objective is the basic orientation in criminal law enforcement in Indonesia.
Principles of penal	In imposing a crime, the judge is obliged to uphold law and justice. Article 53 provides guidelines that in the event that in the event of an antinomy between justice and certainty, judges must administer justice.

Table 3. Customary jurisdiction according to the classification of Snouck Hurgronje.

No	Customary jurisdiction	No	Customary jurisdiction
1	Aceh	11	South Sulawesi
2	Gayo, Alas, Batak, Nias and Batu	12	Ternate
3	Minangkabau and Mentawai	13	Ambon and Maluku
4	South Sumatera and Enggano	14	Irian
5	Bangka and Belitung	15	Timor
6	Kalimantan	16	Bali and Lombok
7	Minahasa, Sangihe, dan Talaud	17	Central Java, East Java, and Madura
8	Gorontalo	18	Swapraja Region
9	Toraja	19	West Java
10	Melayu		

The absence of recognition for customary law in the Old Criminal Code, dictated by the principle of formal legality, led to a substantive formulation that often clashed with the societal values of Indonesian reality. Additionally, discrepancies with the Dutch Criminal Code, particularly in categorizing criminal acts, further exacerbated the incongruence between legal norms and the prevailing social norms in Indonesian society. Despite certain actions not being deemed criminal offenses in the Dutch Colonial Criminal Code, they were considered unsuitable and illegal based on Indonesian societal values (Vincentius Patria Setyawan, 2023). An illustration is found in cases such as adultery between unmarried individuals, cohabitation, and issues related to the LGBTQ + community. Although not explicitly labeled as criminal offenses in the Dutch Colonial Criminal Code, these actions ran counter to the values and principles upheld by Indonesian society and were therefore deemed unacceptable.

To address these normative gaps, various regulations granting authority to enforce living law were introduced. Emergency Law No. 1 of 1951 on Temporary Measures to Organize Unity of the Structure of Authority and Processes of Civil Courts, Article 5 (3) subsection, affirms the imposition of punishment for acts not covered in the Criminal Code based on customary law recognized by the community. This response was further reinforced by Article 23, Paragraph 1, of Law No. 14 of 1970 on Judicial Power, explicitly stating that court decisions must cite the relevant regulations or sources of unwritten law used as the basis for adjudication, alongside the reasons and grounds for the decision.

The existence of these regulations served as the foundational rationale for the House of Representatives and the Indonesian Government to incorporate living law into the new criminal code. Following the ratification of the Draft Criminal Code (RKUHP) into Law No. 1 of 2023 concerning the Criminal Code, living law was officially recognized in Indonesia. Article 2 (1) explicitly stipulates: '*The provisions described in Article 1 Paragraph (1) (the principle of legality) do not diminish the validity of laws in society that prescribe punishment even though the act is not regulated in this law*'. This provision underscores the acknowledgment and integration of living law within the legal framework of Indonesia.

The purpose of Article 2 (1) is elucidated in the explanation section, clarifying that the term 'law that lives in society' refers specifically to customary law, which dictates that individuals who commit certain actions deserve punishment. This concept encompasses unwritten laws that persist and evolve within the lives of the Indonesian people. Regional regulations are then employed to govern these customary crimes, reinforcing law enforcement within the community.

Basically, it is very difficult to be able to combine living law in national law, with the basic nature of living law which is very pluralistic, diverse, and spread according to territories that are completely different from the government administration map (Kuswardani et al. 2022). Similarly, religious law, particularly Islamic law, faces difficulties in its transformation into national law (Isra & Tegnan, 2021). Consequently, a detailed elaboration of various types of living law within the criminal code is deemed impractical. Instead, the principle adopted revolves around the recognition of the existence and legality of living law enforcement (Diala, 2017). The recognition of living law in Article 2 (1) of the Criminal Code makes the principle of legality understood differently from the Dutch Colonial Criminal Code. The principle of legality is no longer the only penalty for the categorization of criminal acts in the Indonesian legal system. Article 2 (1) of the Criminal Code signifies a departure from the Dutch Colonial Criminal Code's interpretation of the principle of legality. In the Indonesian legal system, the principle of legality no longer exclusively dictates the categorization of criminal acts. Recognition of living law means that legal substance regulation adopts normative approaches aligned with community culture and values, fostering a substantive sense of justice (Tongat, 2022).

Granting authority to living law within the Criminal Code establishes the acknowledgment of two legality principles in Indonesian law (Rohayu Harun et al., 2023). Formal legality, recognized for its applicability as the optimal format in criminal law to maintain legal certainty, coexists with material legality. The latter provides space for living law, encompassing all criminal provisions not explicitly stipulated in the law but regarded as criminal within society. While formal legality prioritizes legal certainty, material legality leans toward justice and expediency within society. This intricate legal landscape offers more substantive assurance for law enforcement, striking a balance between the state's imperative for certainty and the community's need for access to justice and expediency.

Nevertheless, the comprehension of the living law within the national criminal system remains notably extensive. Article 2, Paragraph (1) of the New Criminal Code necessitates the enactment of living law

post its regulation through Government Regulations and Regional Regulations. In essence, certain customary laws can only be applied as sources of criminal sanctions subsequent to their delineation in Regional Regulations, the procedural intricacies of which are outlined by Government Regulations. Conceptually, the New Criminal Code establishes a foundational and paradigmatic legitimacy, facilitating the embodiment of these living legal norms and values through subsequent mechanisms within the technical realm of regulation.

Second, purposeful criminal law enforcement. The instrumentation of sanctions is the main character in criminal law whose implementation is monopolized by the state as the sole and highest sovereign entity (Berkmann & Orton, 2020). Criminal law is generally formulated to provide a preventive and curative deterrent effect, namely by frightening and avenging criminal acts committed by a person and causing harm to both others and society (Maculan & Gil Gil, 2020). In normative contextualization, the substance of criminal law is regulated with the aim of providing protection of human rights and community rights and creating a unified social order. This goal is generally abstract, and is at the level of the grundnorm in Kelsen's hierarchy and the staats fundamental norm in Nawiasky's thought. Ontologically, the purpose of criminal law correlates with the paradigm of criminal justice and is formed through dialectical cultural processes over a long time. Therefore, linearly with the criminal justice paradigm, the purpose of punishment also has standardization limits based on the cultural map of society (Nurdin & Turdiev, 2021). The purpose of penalizing Continental European communities as reflected in the Dutch Colonial Criminal Code which prioritizes legal certainty has a disparity with the purpose of criminal law in Indonesian culture characterized by customary law and Islamic law.

In ensuring the achievement of substantive justice and laying the foundation for the criminal law paradigm, important criminal objectives are standardized in the Criminal Code. This characterization of goals correlates with law enforcement efforts so that judges have justification for breaking through, where necessary for the achievement of those goals. In short, the purpose of punishment is placed as an orientation and destination for law enforcement, while the articles in the Criminal Code are the main approach by not closing alternative approaches, namely through waste and legal discovery.

In the Dutch Colonial Criminal Code, the purpose of punishment is not stated with certainty, so it is considered self-explanatory. The absence of this criminal purpose makes law enforcement tend to be instrumental and procedural, oriented towards the enforcement of articles in criminal law. Under the New Criminal Code, the purpose of punishment is implicitly introduced in Article 51, which is stated in Table 4.

Furthermore, in Article 52 it is affirmed that; 'Punishment is not intended to degrade human dignity'.

The conceptualization of the purpose of punishment in the New Criminal Code shifts the paradigm of retaliation carried in the Dutch Colonial Criminal Code into a genuine paradigm with corrective, rehabilitative, restorative, and substantive justice values. The purpose of punishment does not focus on retaliation for the perpetrator's actions, but rather comprehensive protection of victims, perpetrators, and society as a single subject that must be protected in national criminal law. The purpose of punishment reflects the human beauty of law.

In addition to ensuring that punishment serves a non-retributive purpose, the sentencing objectives also afford judges the discretion to refrain from imposing penalties for perpetrators involved in minor offenses. This nuanced perspective is reflected in Article 54 (1), which mandates judges to take into account 11 specific aspects when delivering a verdict. These considerations encompass the perpetrator's

Table 4. The purpose of punishment in Article 51 of Law No. 1 of 2023 concerning the Criminal Code.

Purpose of punishment	Justice paradigm
Prevent criminal acts from being committed by enforcing legal norms for the protection and protection of the community.	Preventive
Socialize convicts by conducting coaching and guidance to become good and useful people.	Rehabilitative
Resolving conflicts arising from criminal acts, restoring balance, and bringing a sense of security and peace in society.	Restorative
Fostering a sense of remorse and exonerating guilt in the convict.	Corrective

level of guilt, the motive and intent behind the criminal act, the inner attitude of the offender, whether the act was planned or impulsive, the modus operandi, the post-crime behavior of the offender, the individual's background, social conditions, economic circumstances, the impact on the offender's future, the repercussions on victims or their families, forgiveness from victims and/or their families, and the prevailing societal values of law and justice.

Article 54 (2) further elucidates that the gravity of the act, the personal circumstances of the perpetrator, or the contextual factors during the crime and its aftermath can serve as grounds to consider refraining from imposing a sentence. This consideration is contingent upon an evaluation of justice and humanity.

The contextualization of Article 54 (1) and (2) grants judges the authority to conduct ethical assessments of criminal acts. Judges evaluate the significance of the offense, enabling them to exercise discretion in cases where the offense is deemed minor and can be resolved without resorting to conviction. Theoretically, the purpose of punishment outlined in the Criminal Code transcends the fundamental principles of determinism, mechanic-atomistic approaches, and reductionism ingrained in the WvS-NI paradigm (Rarog, 2021). Previously, judges operated within procedural constraints and normative logic, seeking correlations between actions and legal provisions. With the new Criminal Code, judges now engage in a more extensive, comprehensive evaluation of criminal acts and render judgments infused with humanistic considerations.

Beyond signaling a paradigm transition and the infusion of values into the legal framework, the articulation of the purpose of punishment in the Criminal Code significantly impacts the technical approach to law enforcement. Articles 51–54 of the Criminal Code empower judges and other law enforcement officials with the tool of 'rechterlijk pardon' and encourage the application of restorative justice. In essence, the dismissal of proceedings in a case is oriented towards achieving substantive justice. This technicalization departs from the WvS-NI, which adhered to the principle of 'no pardon'. Under the previous legal framework, if an individual could be held responsible for a criminal act, conviction was almost inevitable. Conversely, the new Criminal Code introduces a nuanced approach where a crime and the ability to be responsible are scrutinized based on the 11 considerations outlined in Article 54 (1). If compatibility is established and the impact is deemed significant, criminal consequences may be imposed; otherwise, the case can be dismissed through rechterlijk pardon and restorative justice.

Crucially, the formulation of the purpose of punishment in the Criminal Code extends beyond the judiciary. It reflects the Indonesian nation's perspective on the implementation of criminal law, applying to all components of law enforcement at various levels. Both the Police and the Prosecutor's Office are inclusively obligated to assess criminal offenses before proceeding with the conviction process. This aligns with the existing restorative justice policy within the ambit of the Police and Prosecutor's Office, establishing coherence with the provisions of the Criminal Code. The pursuit of substantive justice is meticulously orchestrated, moving through stages from the Police, the Prosecutor's Office, to the Court. Judges, as entities with the authority to issue final verdicts for criminal acts, possess extensive competence in shaping substantive justice.

3.5. Post-colonial societies: how nations are changing their colonial-legacy inherited legal system?

Resistance to colonial law in Indonesia was not an isolated phenomenon but part of the broader colonialist process spanning the 16th to 18th centuries across Asian, African, and Latin American nations. In the pursuit of effective colonialism, colonial governments enacted laws similar to those in their home countries, a practice known as concordance. However, these laws were modified and adjusted to be oppressive. The colonial metropoles established their legal systems and dispute resolution mechanisms, often dismissing pre-existing conflict resolution methods as primitive and suitable only for the native population. Colonial legal projections were imbalanced, primarily geared towards generating profits and enabling the exploitation of the colonizers. Widespread racial discrimination and violations of indigenous rights occurred, such as apartheid in Africa and class distinctions in Indonesia among Western, Foreign Eastern, and Indigenous peoples (Wily, 2021).

The post-World War II era witnessed a global wave of democratization and the swift attainment of independence by many countries. Despite the de jure independence, replacing the colonial legal system

proved challenging because it was deeply entrenched in Lawrence M. Friedman's three aspects of law: substance, structure, and legal culture. As a result, new independent states initially inherited and adopted colonial laws until they could establish their own legal frameworks. In Indonesia, this inheritance is explicitly affirmed in Article 2 of the Transitional Rules in the Indonesian Constitution, which states: 'All existing state bodies and regulations remain valid until new regulations are established'.

The normative incompatibility between the colonial legal system inherited from colonizers and the values of post-colonial societies has made legal transition an inevitable phenomenon. This transition encompasses changes in values, paradigms, substance, and structure. In Africa, this movement has been particularly significant. On 15 July 2019, the Parliament of Rwanda took a decisive step by abolishing all forms of colonial law inherited since 1962 through Article 3 of Law No. 020 of 2019, which states: '*All legal instruments enacted before the date of Rwanda's independence are repealed*'. Globally, societies have mobilized to reject historical instruments of oppression.

Rwanda, akin to several African nations, has commenced the departure from the colonial legacy legal system, opting for the development of the Customary Law of Africa, which is arguably the world's oldest legal system and still persists today Originating prior to the era of colonialism, its principles have been transmitted through generations (Atuguba, 2022). Sub-Saharan Africa has also witnessed law reform, transitioning from the colonial legal system to a modern legal framework grounded in the authentic values of the sub-Saharan society, a movement initiated since the 1960s (Sedler, 1968).

In Malaysia, the incongruity of the colonial legal system arose from the misalignment between the Islamic legal tradition and the inherited Anglo-Saxon law. The colonial legal system was criticized for 'unfairly discriminating or being otherwise prejudicial' (M. R. Salim & Philip, 2022). Malaysia is actively pursuing legal reforms across various domains, including criminal, civil, and corporate. Conversely, in Brunei Darussalam, the implementation of Islamic Penal Law, replacing the British-Colonial Legal System, has been in effect since 2014. The Sharia Penal Code Order (SPCO) enacted by the Brunei government on 1 May 2014, contrasts with the colonial legal system, introducing criminalization of the LGBT community and enforcing severe penalties such as stoning and beheading for offenses like sodomy, adultery, rape, and murder (Minardi et al., 2022).

Latin America's confrontation against the colonial legacy began in the 19th century with the independence of Spanish and Portuguese colonies. Mexico declared independence from Spain in 1821 after an eleven-year war but continued to enforce the Civil Code until 1884. In 1884, Article 217 of the Civil Code abolished restrictive articles from the Spain Colonial Civil Code, signaling the initiation of 'full testamentary freedom rights. In Argentina, a wave of penal reform occurred while retaining Spanish colonial law and modifying it into the Latin European legal system. Article 3591 of the 1868 Civil Code, for instance, introduced the concept of 'forced heirs', limiting the succession right to a specific portion of inheritance.

The characteristics of penal reform in Argentina that maintained colonial law occurred due to high immigration to the country so that since 1853, as the country became increasingly ethnically Spanish and Italian, laws and institutions continued to reflect Latin European ideals (Cerami, 2022). However, the divergent penal reform patterns in Mexico and Argentina can be read in one common conclusion: legal changes follow the social and cultural needs of post-colonialism societies.

The distinctive penal reform trajectories in Mexico and Argentina converge on a common conclusion: legal changes align with the social and cultural needs of post-colonial societies. In Indonesia, similar to Rwanda, Malaysia, Brunei, and Mexico, the pattern of penal reform involves transitioning from the Colonial Legal System to a genuine legal system across all aspects. Beyond updating criminal law with the New Criminal Code, Indonesia is undergoing broader legal reform, encompassing civil and commercial laws according to national needs. Legal reform represents a global movement for former colonies, with the imperative to discard incompatible colonial laws (Reed, 2021).

4. Conclusion

The penal reform introduced in the New Criminal Code marks a pivotal transformation in the dimensions of values, paradigms, and norms within Indonesian criminal law. This transition, while unavoidable, aligns with a recurring phenomenon observed in pre-colonial societies. The inherent incompatibility of the colonial legal system with societal values has precipitated a crisis of justice and a substantial gap in the

realization of legal objectives. This situation stems from the pivotal role of values in shaping the law and influencing its implementation in society. In the Indonesian context, the Dutch Colonial Criminal Code, rooted in Continental European tradition, diverges from the principles and personality of a nation with a pre-existing customary law system and an Islamic legal framework predating the colonial era.

The reformulation of criminal law in the New Criminal Code seeks to reinstate the essence of Indonesian values within a genuine paradigm, namely the Pancasila value balance paradigm. This paradigm is characterized by four key components. First, the deconstruction of positivism through the introduction of the principle of material legality. Second, the integration of living law as an integral component of the Indonesian criminal law system. Third, a reevaluation of the purpose of punishment in law enforcement. Fourth, the incorporation of principles guiding punishment as a consideration for judges in case adjudication. Two fundamental novelties indicating a paradigm shift are the acknowledgment of living law as a source of punishment alongside positive law and the ideologization of criminal law with goals normatively defined in the Criminal Code.

The contextualization of criminal law norms is achieved by establishing a system that serves as a connecting bridge between societal reality and needs and legal norms. Consequently, the criminal law paradigm plays a decisive role in shaping the perception of justice derived from instrumental and procedural articles. Through this paradigmatic shift, Indonesia allows for the prioritization of a sense of justice and the purpose of punishment in law enforcement, emphasizing laws that resonate within society. This reflects a commitment to adapting the law to society, recognizing that the law exists for the benefit of humanity, not vice versa. While acknowledging penal reform as an unavoidable and essential phenomenon, Indonesia has made profound changes aligned with the linear progression of people's values and culture – a testament to the inherent beauty of human-centered law. However, it is crucial to recognize that sustained efforts to achieve social justice necessitate comprehensive considerations, encompassing legal substance, cultural nuances, accessibility to legal information and public services, robust legal institutions, and effective law enforcement. The enactment of a new regulation does not guarantee the resolution of all societal issues, and careful consideration is required in evaluating the broader impact on social justice.

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CRediT authorship contribution statement

Faisal: Conceptualization, Methodologsgy, Writing – Original Draft, Investigation. **Andri Yanto**: Data curation, Formal analysis, Writing – Review & Editing**. Dwi Haryadi**: Visualization, Software, Validation, Resources. **Derita Prapti Rahayu**: Supervision, Project administration, Funding acquisition. **Anri Darmawan**: Methodology, Writing – Original Draft, Investigation. **Jeanne Darc Noviayanti Manik**: Conceptualization, Writing – Review & Editing, Visualization.

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