

Reforming Criminal Sentencing: The Installment-Based Imprisonment Model as an Equitable Alternative

Siswanto^a, Ariesta Wibisono Anditya^b

^a Faculty of Law, Universitas Pancasakti Tegal, Indonesia

^b Faculty of Law, University of Malaya, Malaysia

✉ Corresponding Email: siswanto@upstegal.ac.id

Abstract

This study examines the normative and theoretical foundations of installment-based imprisonment as a progressive alternative in contemporary sentencing reform. It argues that a modular custodial model can enhance fairness, proportionality, and flexibility by addressing major criticisms of conventional imprisonment, particularly socio-economic inequality, structural rigidity, and the limited capacity of prison sanctions to support restorative goals. Using normative legal research, this study combines statutory, conceptual, comparative, and futuristic approaches to analyze legal materials and identify both doctrinal limitations and future reform opportunities. Through a descriptive-prescriptive framework, the research maps the current legal landscape and formulates recommendations for restructuring custodial sanctions in line with equitable punishment, penal rationality, and individualized justice. Content analysis is employed to reveal recurring patterns, normative inconsistencies, and tensions within existing sentencing practices. The findings suggest that installment-based imprisonment could reduce prison overcrowding, lessen the socio-economic harm caused by continuous



incarceration, support reintegration, and promote more humane penal policies without undermining offender accountability. It also encourages sentencing adaptability and prevents excessive punitive consequences in practice. By integrating doctrinal analysis, comparative perspectives, and forward-looking legal reasoning, this study concludes that installment-based imprisonment offers a viable and ethically grounded model for criminal sentencing reform.

Keywords

Sentencing Reform, Installment-Based Imprisonment, Penal Policy, Criminal Justice Reform, Proportional Punishment.

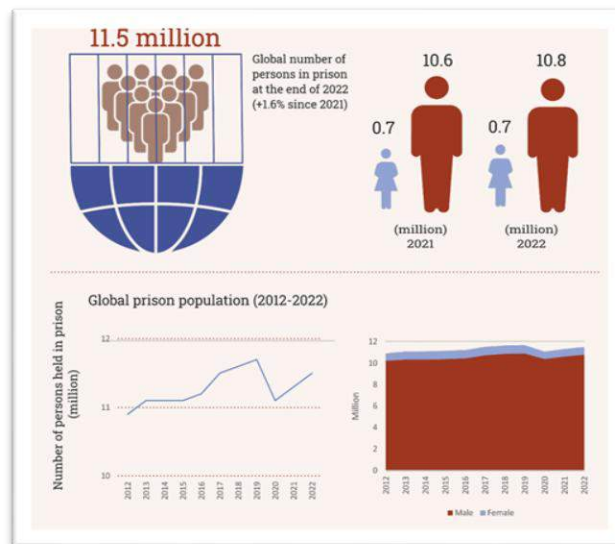
Introduction

Debates on the future of criminal punishment across jurisdictions increasingly reveal that conventional imprisonment is facing a deep legitimacy and effectiveness crisis.¹ Numerous international studies indicate that recidivism rates remain high despite the continuous tightening of custodial sanctions.² The global prison population has continued to rise over the past decade, reaching 11.5 million people by the end of 2022, a 1.6% increase over 2021. The gender distribution shows a significant dominance of male prisoners, rising from 10.6 million in 2021 to 10.8 million in 2022, while the number of female prisoners remains stable at 0.7 million. The 2012–2022 trend graph indicates a consistent upward trajectory with some fluctuations, yet the global prison population persistently remains above 11 million.

¹ Rok Hacin and Gorazd Meško, “Punishment and Legitimacy,” *The Dual Nature of Legitimacy in the Prison Environment*, 2020, 9–15, https://doi.org/10.1007/978-3-030-32843-6_2.

² Damon M. Petrich et al., “Custodial Sanctions and Reoffending: A Meta-Analytic Review,” *Crime and Justice* 50, no. 1 (January 2021): 353–424, <https://doi.org/10.1086/715100>.

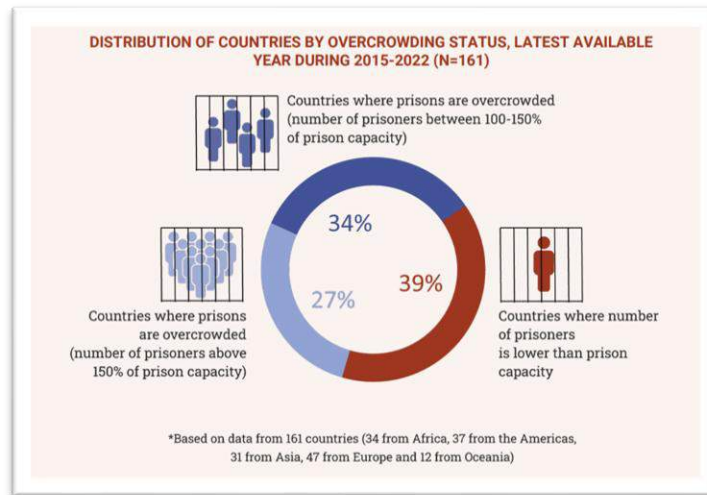
Picture 1. Global Prison Population Trends (2012–2022) and Gender Distribution for 2021–2022



Source: UNODC, Prison Matters 2024, Global Prison Population and Trends; A Focus on Rehabilitation (United Nations, 2024).

The global distribution of prison overcrowding based on data from 161 countries between 2015 and 2022. It shows that 39% of countries have prison populations exceeding their official capacity, indicating severe overcrowding pressures. An additional 34% of countries operate prisons at 100–150% of capacity, reflecting moderate but still problematic overcrowding.

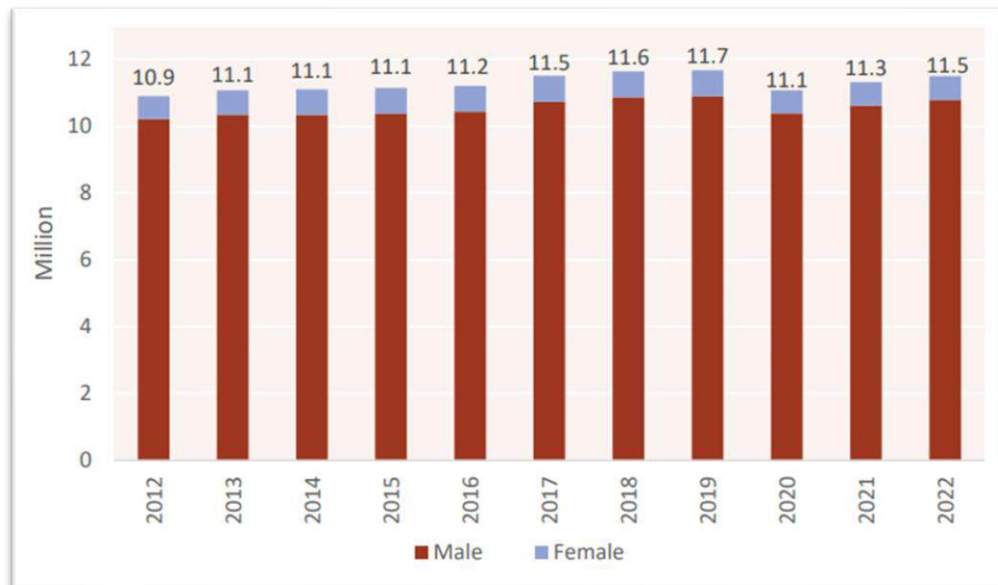
Picture 2. Global Distribution of Prison Overcrowding Status, 2015–2022 (N=161 Countries)



Source: UNODC, Prison Matters 2024: Global Prison Population and Trends; A Focus on Rehabilitation (United Nations, 2024).

Only 27% of countries report prisoner numbers below their prison capacity, suggesting that fewer than one-third of global prison systems function within sustainable limits. With data spanning regions including Africa, the Americas, Asia, Europe, and Oceania, the visualization underscores that overcrowding is a widespread structural issue rather than a regional anomaly, highlighting the urgent need for comprehensive penal reform and the adoption of alternatives to full-time imprisonment.

Picture 3. Global prison population, by sex, 2012 and 2022



Source: UNODC, *Prison Matters 2024, Global Prison Population and Trends; A Focus on Rehabilitation* (United Nations, 2024).

Following a decrease during the COVID-19 pandemic, the number of people held in prison worldwide has started to rise again. An estimated 11.5 million people were detained globally in 2022, 5.5 percent more than in 2012. Thus, 144 persons out of every 100,000 people worldwide were in prison in 2022. The *European Sourcebook of Crime and Criminal Justice Statistics* (2023) also shows similar patterns across Europe, with several countries, such as France and Germany, maintaining recidivism levels above 35%. At the same time, the global prison population continues to rise, surpassing 11.5 million inmates in 2023. These figures reflect the structural failure of penitentiary systems to realize the rehabilitative and reintegrative purposes they were originally designed to fulfill. As a result, many jurisdictions have begun exploring more humane, effective, and socially adaptive alternatives to conventional incarceration.

One of the fundamental issues with traditional imprisonment is its absolute and inflexible nature.³ Custodial sentences with fixed durations often fail to account for offenders' economic position, employment conditions, family responsibilities, or social context. The *United Nations Office on Drugs and Crime* (UNODC), in its *Handbook on the Management of High-Risk Prisoners* (2020), emphasizes that imprisonment frequently produces disproportionate socio-economic impacts on vulnerable populations, particularly individuals from low-income households.⁴ The loss of employment, permanent income disruption, weakened family ties, and long-term stigmatization are among the many consequences that structurally deepen inequality. Furthermore, the *Global Prison Trends 2023* report published by Penal Reform International, in partnership with the Thailand Institute of Justice, highlights that despite global commitments to reduce overreliance on imprisonment, reflected in the Kyoto Declaration and the UN Common Position on Incarceration, little progress has been made in shifting away from custodial penalties as the default response to crime. With a record 11.5 million people imprisoned worldwide and 120 countries operating above official prison capacity, the report underscores how economic pressures, including rising food, transport, and energy costs, have deepened the vulnerabilities of prison systems and intensified the hardships faced by incarcerated individuals and their families.⁵ These findings reaffirm the systemic challenges in achieving proportional and alternative sentencing practices on a global scale.

This trend is also evident across Asia. Japan, despite its relatively low crime rate, faces challenges concerning the effectiveness of custodial punishment. South Korea, although implementing progressive correctional reforms, still reported a recidivism rate of 34% in 2023,

³ Michel Foucault, "Alternatives to the Prison," *Theory, Culture & Society* 26, no. 6 (2009): 12–24, <https://doi.org/10.1177/0263276409353775>.

⁴ Helen Canton, "United Nations Office on Drugs and Crime—UNODC," *The Europa Directory of International Organizations 2021*, July 2021, 240–44, <https://doi.org/10.4324/9781003179900-33>.

⁵ penalreform.org, "Global Prison Trends 2023 - Penal Reform International," penalreform.org, 2023.

alongside an 8% increase in its prison population over the last decade. Southeast Asian countries face even more alarming conditions. The Philippines records more than 390% overcrowding, one of the highest rates in the world. Thailand's prison population reached approximately 330,000 inmates in 2023, largely driven by punitive drug policies. Indonesia, Malaysia, and Vietnam also exhibit significant increases in their prison populations, reflecting systemic dependence on imprisonment as the primary mode of punishment.

In Indonesia, the situation remains critically strained. The number of Correctional Institutions (Lapas) and Detention Centers (Rutan) has continued to increase over the years, reaching 526 facilities in 2023 with a combined official capacity of 140,424 people, up from 492 facilities with a capacity of 130,446 in 2019. Despite this expansion, overcrowding remains severe. Current figures show that 265,897 individuals are housed in these facilities, resulting in an overcrowding rate of approximately 89.35%. This persistent mismatch between capacity and the actual number of inmates underscores the structural challenges within Indonesia's correctional system. It highlights the urgent need for more sustainable and equitable sentencing alternatives.⁶ This condition has persisted for more than a decade without structural solutions. One of the contributing factors is the punitive orientation of law enforcement agencies, which continue to rely on imprisonment as the default sanction, despite the expanded range of non-custodial penalties in Law No. 1 of 2023 on the Criminal Code (KUHP). The implementation of non-custodial measures remains limited due to structural constraints and a deeply ingrained penal culture that privileges incarceration.

Another pressing issue concerns the unequal socio-economic burden produced by imprisonment in Indonesia. The World Bank's Indonesia Justice Sector Review highlights that individuals from low-income and

⁶ Nurul Hani Pratiwi, "Kondisi Lembaga Pemasyarakatan Di Indonesia Pasca Ditetapkannya UU Nomor 22 Tahun 2022 Tentang Pemasyarakatan," setkab.go.id, 2024.

informally employed groups are disproportionately represented in the criminal justice system and face substantial barriers in accessing legal assistance, reinforcing structural vulnerabilities during the sentencing process. National statistics also show that imprisonment frequently results in significant economic shocks for families. According to Statistics Indonesia (BPS), households that lose a primary wage earner, such as those with a family member entering detention, experience a sharp decline in income stability and a heightened risk of falling into poverty. These socio-economic disruptions are consistent with global findings reported by UNODC and Penal Reform International, which demonstrate that incarceration often leads to job loss, long-term income instability, and increased financial strain on dependents. Collectively, these patterns underscore that conventional imprisonment carries disproportionate social and economic costs for Indonesia's most vulnerable populations, reinforcing the need for sentencing models that distribute the burdens of punishment more equitably.⁷

At the theoretical level, developments in penal philosophy indicate a need to shift away from a purely retributive paradigm toward a rehabilitative, restorative, and socially responsive model. John Rawls's theory of distributive justice underscores that laws, especially those relating to punishment, must ensure fairness in the allocation of burdens.⁸ Similarly, Andrew Ashworth's theory of *penal minimalism* stresses the importance of proportionality and subsidiarity in sentencing, arguing that imprisonment should be a last resort.⁹ Normatively, international instruments such as the *UN Standard Minimum Rules for Non-Custodial*

⁷ Alex Rikardo Siahaan, Hasan Hiawatha Rifai, and Asmak Ul Hosnah, "Disparity in Sentencing and the Effectiveness of Indonesia's Narcotics Law: A Critical Analysis of Law No. 35 of 2009," *Arkus* 11, no. 1 (December 2025): 754–66, <https://doi.org/10.37275/ARKUS.V11I1.680>.

⁸ Wojciech Sadurski, "Distributive Justice and the Theory of Punishment," *Oxford Journal of Legal Studies* 5, no. 1 (March 1985): 47–59, <https://doi.org/10.1093/OJLS/5.1.47>.

⁹ Andrew Ashworth, "Prisons, Proportionality and Recent Penal History," *Modern Law Review* 80, no. 3 (May 2017): 473–88, <https://doi.org/10.1111/1468-2230.12266>; REQUESTEDJOURNAL:JOURNAL:14682230;CTYPE:STRING:JOURNAL.

Measures (Tokyo Rules) call upon states to adopt flexible, proportionate, and socially adaptive sentencing frameworks.¹⁰ In response, several jurisdictions have introduced modular or partial forms of custody, including *weekend imprisonment*, *intermittent sentencing*, and *home detention*, which allow offenders to maintain essential social and economic roles while still fulfilling their custodial obligations.

The concept of installment-based imprisonment emerges as an innovative model aligned with these global trends. It seeks to divide the execution of a custodial sentence into scheduled modules such as weekends, several days per month, or short-term intermittent periods, allowing offenders to continue employment, education, or caregiving responsibilities. This approach does not eliminate punishment; rather, it restructures its execution to preserve the deterrent effect without destroying the social and economic foundations of offenders' lives. Canada, Australia, and Finland have implemented various forms of *intermittent sentences*, while several jurisdictions in the United States permit *weekend jail* for low-risk offenders. Research in Ontario, Canada, indicates that intermittent sentences reduce recidivism by 17% due to the sustained family ties and employment stability experienced by offenders.

The installment-based imprisonment model is particularly relevant to Indonesia's socio-economic landscape. With a poverty rate of 9.36% (Statistics Indonesia, 2024) and an income inequality index (Gini Ratio) of 0.388, full-day imprisonment disproportionately harms the poor. Many offenders convicted of minor or moderate offenses, such as petty theft, traffic violations, or victimless crimes, are the primary income earners for their families. When these individuals are incarcerated full-time, the consequences are not only borne by the offender but also by their dependents. An installment-based model, implemented through strict

¹⁰ Maria Ulfah, "Pidana Kerja Sosial, Tokyo Rules, Serta Tantangannya Di Masa Mendatang," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 10, no. 3 (September 2021): 517, <https://doi.org/10.24843/JMHU.2021.v10.i03.p07>.

judicial oversight and proportionate sentencing criteria, could reduce these cascading socio-economic harms while maintaining accountability.

Furthermore, Indonesia's correctional system suffers from persistent resource limitations. Reports from the Ministry of Law and Human Rights (2024) indicate that the average daily food budget per inmate is approximately IDR 20,000–25,000, far below international welfare standards. Overcrowding exacerbates issues related to sanitation, health, and inmate security. A 2023 study by the National Human Rights Commission (Komnas HAM) found that 61% of correctional facilities lack adequate medical access, while 43% of inmates do not receive routine health examinations. These conditions illustrate how excessive reliance on imprisonment drains state resources without yielding meaningful rehabilitative outcomes. Alternative sentencing models that reduce the prison population without compromising deterrence are, therefore, not only necessary but urgent.

The concept of installment-based imprisonment also has normative foundations within Indonesia's legal system. The 2023 Criminal Code recognizes a range of sanctions, including supervision penalties, community service, and category-based fines. However, it does not yet regulate modular or intermittent custodial sentences. Nonetheless, Indonesia's legal framework provides ample space for innovation through the implementation of regulations, judicial policies, or future legislative reforms. The 2022 Corrections Law emphasizes individualized, needs-based correctional treatment, an approach compatible with the logic of installment-based imprisonment, which treats offenders as individuals with varying social and economic capacities.

In addition to the structural and normative dimensions, conventional imprisonment also affects victims' and communities' interests. In many cases, lengthy imprisonment of low-risk offenders disrupts processes of restitution and compensation because offenders lose the ability to generate income. Installment-based imprisonment, by allowing offenders to

maintain employment, can facilitate more consistent and meaningful restitution payments. This aligns with the principles of restorative justice, which have gained broad international recognition, including within the *UN Basic Principles on the Use of Restorative Justice Programs in Criminal Matters*.

Among the various alternatives proposed in global penal reform, installment-based imprisonment presents a rare opportunity to reconcile retributive, rehabilitative, and restorative aims within a single model. Imprisonment is still executed, thus preserving the functions of retribution and general deterrence. However, the flexible scheduling mechanism enables individualized assessments of offenders' economic capacity, social needs, and risk levels. At the same time, the state benefits from reduced correctional costs and the ability to redirect resources toward vocational training, social rehabilitation, and psychosocial services.¹¹

Compared with global developments, modern sentencing systems must evolve alongside social complexity. Norway, while not utilizing installment-based sentencing, offers a humane prison model that reduces recidivism to around 20%. The Netherlands reduced its prison population by 44% by 2023 through a combination of alternative sanctions and progressive law enforcement strategies. New Zealand integrates community corrections, intensive supervision, and home detention to manage low-risk offenders. These examples illustrate that penal reform is most effective when states are willing to experiment with innovative, evidence-based frameworks that emphasize proportionality, effectiveness, and human dignity.

Within this global landscape, where penal paradigms increasingly shift toward fairness and adaptability, Indonesia must formulate new sentencing approaches that address longstanding structural issues without

¹¹ Ibnu Chuldun, Fathur Rokhman, and Widiyanto Widiyanto, "Women Between Jail: A Discourse of Women Protection on Indonesia Correctional Act," *Journal of Law and Legal Reform* 5, no. 2 (2024): 868–93, <https://doi.org/https://doi.org/10.15294/jllr.v5i2.13067>.

creating new ones. The installment-based imprisonment model is relevant not because it imitates international trends, but because it directly responds to uniquely Indonesian challenges such as structural poverty, chronic overcrowding, penal inequality, and limited correctional resources. By integrating flexibility, humanity, and penal rationality, this model opens possibilities for a more equitable and socially constructive criminal justice system.

Method

This study employs a normative legal research methodology to examine the legal norms, doctrines, and principles governing the conceptualization and potential implementation of an installment-based imprisonment model within modern criminal justice systems.¹² Normative legal research is appropriate for this topic because the development of new forms of punishment requires a thorough exploration of the underlying statutory frameworks, doctrinal interpretations, philosophical foundations, and comparative legal perspectives.¹³ This method enables the research to identify normative gaps in Indonesia's current sentencing structure and to evaluate the feasibility of adopting modular or intermittent custodial sanctions as an equitable alternative to conventional imprisonment. The research adopts four complementary approaches: the statutory, the conceptual, and the comparative.¹⁴ The statutory approach is employed to examine primary legal materials, particularly national legislation governing criminal punishment and correctional administration, including the Indonesian Criminal Code (Law No. 1 of 2023), the Corrections Law

¹² Zico Junius Fernando et al., "Neurolaw: A Concept in Development and Enforcement of Criminal Law in Indonesia," *Jambura Law Review* 7, no. 1 (2025): 55–87, <https://doi.org/10.33756/JLR.V7I1.24144>.

¹³ Zico Junius Fernando et al., "Advancing Ecological Justice through the Integration of Eco-Religion in Criminal Law Reform," *Journal of Law, Environmental and Justice* 3, no. 2 (July 2025): 160–200, <https://doi.org/10.62264/JLEJ.V3I2.133>.

¹⁴ Akhmad Akhmad, Zico Junius Fernando, and Papontee Teeraphan, "Unmasking Illicit Enrichment: A Comparative Analysis of Wealth Acquisition Under Indonesian, Thailand and Islamic Law," *Journal of Indonesian Legal Studies* 8, no. 2 (2023): 899–934, <https://doi.org/10.15294/jils.v8i2.69332>.

(Law No. 22 of 2022), and relevant provisions of the Criminal Procedure Code. In addition, this study also refers to international instruments, such as the United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules), not as primary legal materials, but as persuasive and complementary reference materials for evaluating the normative direction of sentencing reform in light of internationally recognized penal standards. Through this approach, the study assesses the extent to which Indonesia's existing legal framework allows or limits the implementation of installment-based imprisonment. The statutory analysis also examines how other jurisdictions regulate intermittent or modular custodial sanctions, providing a basis for evaluating Indonesia's regulatory readiness. The conceptual approach is applied to engage with key theoretical constructs in the philosophy of punishment, including proportionality, distributive justice, penal minimalism, and restorative justice. This approach helps contextualize installment-based imprisonment within broader penal theory and clarifies the relationship between punishment, fairness, and social equality. By examining scholarly interpretations and philosophical debates, this study situates the installment-based model within contemporary discussions of penal reform and the shift toward more humane, individualized sentencing practices. The research further employs a comparative legal approach to draw insights from countries that have implemented intermittent or flexible custodial sanctions. Examples from Canada, Australia, Finland, the United States, and selected European jurisdictions are analyzed to identify the legal mechanisms, judicial policies, and correctional infrastructures that support modular sentencing. This comparative analysis enables the study to map similarities and differences across legal systems, evaluate the effectiveness of these models, and identify features that may be adapted to the Indonesian context. The use of comparative law also highlights emerging trends in global penal reform, offering practical lessons for Indonesia's future policy considerations. The study relies on secondary legal materials as its primary data source. These materials include academic books, peer-reviewed journal articles, comparative sentencing policy documents, research reports from international organizations such as UNODC, Penal Reform International, and the World Bank, and empirical studies on recidivism and correctional practices. Primary legal

materials, such as legislation, draft laws, international conventions, and judicial decisions, are analyzed to provide doctrinal grounding and ensure that arguments align with authoritative legal sources. Tertiary materials, including legal encyclopedias, commentary papers, and policy briefs, are utilized to clarify terminology and provide supplementary background information. All collected data are analyzed using a qualitative content analysis method.¹⁵ This analytical technique enables the researcher to systematically interpret legal texts, identify recurring normative patterns, detect inconsistencies, and formulate doctrinal arguments relevant to the development of installment-based imprisonment. The conceptual approach is used to construct the meaning, scope, and normative foundation of gradual imprisonment, particularly because this concept has not yet been clearly defined or systematically regulated in positive law. Through doctrinal interpretation and theoretical analysis, this approach clarifies its relationship with proportionality, individualized sentencing, penal flexibility, and humane punishment. Content analysis is then applied by examining legal texts, classifying key issues, comparing relevant models, and reconstructing sentencing principles to formulate prescriptive arguments for the possible integration of gradual imprisonment into Indonesia's legal system. The use of a descriptive–prescriptive orientation allows the research to both describe the existing doctrinal landscape and propose normative recommendations.¹⁶ The descriptive component maps the existing legal framework, comparative practices, and theoretical basis of installment-based sentencing. In contrast, the prescriptive component proposes reform directions grounded in fairness, proportionality, and individualized justice. Together, they enable the study not only to explain the current legal position but also to offer constructive recommendations for sentencing reform.

¹⁵ Erdianto Effendi et al., “Trading in Influence (Indonesia): A Critical Study,” *Cogent Social Sciences* 9, no. 1 (December 2023): 1–13, <https://doi.org/10.1080/23311886.2023.2231621>.

¹⁶ Zico Junius Fernando et al., “Cyber Victimology and Legal Gaps in Southeast Asia,” *International Law Discourse in Southeast Asia* 4, no. 1 (June 2025): 1–39, <https://doi.org/10.15294/ILDISEA.V4I1.20147>.

Result and Discussion

A. Normative Barriers in Indonesia's Sentencing Framework for Installment-Based Imprisonment

The reformulation of punishment within Indonesia's contemporary criminal justice system remains heavily influenced by a long-standing reliance on full-time imprisonment as the dominant penal response, thereby limiting flexibility for alternative custodial models, such as installment-based imprisonment. Although Law No. 1 of 2023 on the Criminal Code (KUHP 2023) introduces a more diverse menu of sanctions ranging from supervision, fines with categories, and community service, the basic structure for custodial sentences remains fixed, continuous, and indivisible.¹⁷ This creates a foundational normative barrier because the legal framework conceptualizes imprisonment as an uninterrupted deprivation of liberty rather than as a modular sanction capable of intermittent execution. As a result, Indonesian law lacks the doctrinal building blocks necessary to legitimize or operationalize installment-based imprisonment as part of the sentencing menu.

A primary normative obstacle emerges from the regulatory construction of imprisonment in the KUHP 2023. Rather than being defined in Article 63, the structure of imprisonment is governed by Article 68, which classifies imprisonment as a custodial sanction consisting of either a life term or a fixed-term deprivation of liberty ranging from one day to a maximum of fifteen years, extendable to twenty years in specific statutory situations. This formulation implicitly frames imprisonment as a continuous, institution-based sanction that must be served within the correctional system, thereby limiting the flexibility of alternative or fragmented models of custodial punishment. This conceptualization presumes that the deprivation of liberty must occur within a linear, continuous timeframe, thereby excluding interpretations that might permit modular execution. Unlike jurisdictions such as Canada, Finland, or several states in the United States, where intermittent custody is

¹⁷ Hafita Mutiara Zaharani and Raya, "Tinjauan Yuridis Pengaturan Pidana Pokok Dan Tujuan Pemidanaan Dalam KUHP 2023 Indonesia Dan Strafgesetzbuch Jerman," *Depositi: Jurnal Publikasi Ilmu Hukum* 3, no. 2 (June 2025): 47–58, <https://doi.org/10.59581/DEPOSISI.V3I2.5064>.

explicitly regulated, Indonesian law has no provision allowing the judiciary to divide a custodial sentence into scheduled portions. The absence of a legal basis for disaggregating time-based punishment reflects a structural rigidity within the statutory framework, reinforcing the understanding that the temporal continuity of imprisonment is intrinsic to its legal meaning.

Another normative barrier concerns the limited authority granted to judges in shaping the modality of sentence execution. Indonesian sentencing law separates the roles of judges (who impose sentences) from correctional administrators (who execute them). Under this dualism, judges can only articulate the type and duration of the punishment, without discretion to design how the imprisonment should be operationalized. Even when the correctional system holds partial discretion in parole or remission, these mechanisms operate *after* imprisonment begins and do not allow for intermittent or installment-based execution. Therefore, any model of installment-based imprisonment would require judges to be given authority beyond the current statutory design, which currently prescribes imprisonment in strictly continuous terms.

The new Criminal Procedure Code (Law No. 20 of 2025) still presents a significant procedural challenge to the adoption of installment-based imprisonment, but that challenge must be framed more precisely. The law no longer treats pretrial custody as a single, entirely rigid form of deprivation of liberty. Article 108 recognizes three forms of detention: detention in a state detention house, house detention, and city detention, and also provides that pre-judgment arrest or detention time is credited against the sentence, with special conversion rules for house and city detention. The Code further allows the type of detention to be changed and permits suspension of detention at the request of the suspect or accused under certain conditions. However, once a judgment has acquired final and binding force, the execution structure remains conventional. Article 342 paragraph (1) places the execution of final judgments in the hands of the public prosecutor, Article 344 paragraph (2) requires imprisonment to be served in a correctional institution, and Article 250 paragraph (3) states that judgments are to be executed immediately according to the Code. The KUHAP also regulates prison execution in a

sequential, not segmented, manner. Accordingly, the main normative barrier is not the total absence of custodial flexibility in the new KUHAP, but the absence of an explicit procedural basis for judicially ordered installment-based imprisonment, periodic custodial service, or segmented post-conviction execution.

The Corrections Law (Law No. 22 of 2022) further reinforces the normative constraints surrounding the conceptualization of imprisonment. Although the statute adopts a reintegrative philosophy, its operative provisions strictly situate imprisonment as a form of continuous residency within a correctional facility. Article 1(6) expressly defines a “Narapidana” as a convicted person who is serving a term of imprisonment while undergoing correctional treatment in a Lembaga Pemasyarakatan (Lapas), thereby establishing institutional residency as an essential element of the sanction. This institutional framing is strengthened by Articles 6 and 35, which mandate that all correctional functions, ranging from placement and care to treatment and security, are administered within Rutan, LPAS, Lapas, or LPKA. Nowhere does the law provide a procedural or administrative mechanism that would permit imprisonment to be carried out intermittently, fractionally, or according to a judicially segmented schedule. Consequently, despite its rehabilitative aspirations, the Corrections Law structurally presupposes uninterrupted custodial residence, leaving no normative space for the operationalization of a modular or installment-based imprisonment model.

In addition to statutory constraints, Indonesia’s penal theory, embedded in legislation, remains tied to a classical conception of imprisonment. The KUHP and its explanatory materials prioritize imprisonment as the principal custodial penalty, with restorative and rehabilitative purposes expected to occur within the walls of the correctional institution.¹⁸ The doctrinal framing of imprisonment reflects a traditional understanding in which the deprivation of liberty serves both as an instrument of retribution and as a mechanism of state control over

¹⁸ Dika Agusta, Abdul Madjid, and Nurini Aprilianda, “Reforming Indonesian Criminal Law: Integrating Supervision, Punishment, And Rehabilitation For Restorative Justice,” *International Journal of Islamic Education, Research and Multiculturalism (IJIERM)* 7, no. 1 (February 2025): 54–68, <https://doi.org/10.47006/IJIERM.V7I1.434>; Erna Dewi, Bhanu Prakash Nunna, and Maya Shafira, “Corporate Crimes and Penal Reform in Indonesia: Evaluating the Efficacy of the Criminal Code,” *Jambe Law Journal* 8, no. 1 (July 2025): 287–313, <https://doi.org/10.22437/home.v8i1.525>.

the offender. Such conceptual rigidity leaves little space for reinterpretation or innovation in how imprisonment might be structured or experienced. Installment-based imprisonment, by contrast, requires a rethinking of imprisonment not as a continuous state of incapacitation, but as a structured series of custodial episodes aimed at minimizing harm while maintaining accountability.

Another normative barrier appears in the principle of equality before the law (Article 27 paragraph (1) UUD 1945), which has influenced judicial attitudes toward sentencing parity.¹⁹ Indonesian judicial culture often favors uniformity in sentencing practices to prevent accusations of preferential treatment. The introduction of installment-based imprisonment, typically granted to low-risk offenders, primary breadwinners, or individuals with specific socio-economic vulnerabilities, could be misunderstood as offering privileged treatment to certain classes of offenders. Without a clear statutory framework clarifying that installment-based models are consistent with the principles of proportionality and distributive justice, judges may hesitate to adopt such measures for fear of violating the principle of equality. This normative sensitivity becomes a structural barrier unless the legal system explicitly anchors installment-based imprisonment within a fairness-based rationale that is clearly distinguishable from unequal treatment.

Further complexity arises from the absence of a legal framework governing risk assessment, which is essential for determining eligibility for installment-based imprisonment. Countries implementing intermittent sentencing generally depend on standardized risk assessment instruments to ensure that only low-risk offenders are granted the privilege of modular incarceration. Indonesian criminal law, however, lacks binding risk assessment tools for sentencing. The Correctional Assessment (Litmas or *Laporan Penelitian Kemasyarakatan*) is used in parole and reintegration processes, but it is not a formal prerequisite for sentencing. Without legally mandated risk assessment mechanisms, the normative basis for distinguishing between offenders eligible and ineligible for installment-

¹⁹ Salomo Jitmau, Sokhib Naim, and Muh Akhdharisa SJ, "Implementation of the Principle of Equality Before the Law in the Dynamics of Indonesian Law," *JUSTISI* 11, no. 2 (April 2025): 441–55, <https://doi.org/10.33506/JS.V11I2.4088>.

based imprisonment remains weak, raising concerns about arbitrariness or inconsistent application.

Indonesia's strong emphasis on administrative law in environmental, narcotics, and economic offenses also influences judicial orientation toward incarceration. For many offenses, violations of administrative duties or licensing conditions are still interpreted as requiring custodial sanctions to reinforce deterrence. This punitive administrative orientation permeates the normative culture of the judiciary, fostering skepticism toward alternatives that allow offenders temporary freedom while they are serving a custodial sentence. Installment-based imprisonment, which inherently requires temporary release, may be viewed as incompatible with the deterrence logic underlying many administrative-linked criminal provisions. Such normative tendencies limit the judiciary's willingness to embrace flexible custodial models unless explicitly supported by legislative reform.

The absence of explicit constitutional guidance further contributes to the normative uncertainty. Although the Constitution guarantees human dignity and protection against arbitrary detention, it does not articulate principles of proportional punishment or individualized sentencing. Courts thus rely heavily on statutory law rather than constitutional interpretation when defining the boundaries of punishment. Without constitutional jurisprudence supporting flexible punishment models, installment-based imprisonment lacks the jurisprudential foundation necessary to be constructed as a constitutionally compatible form of deprivation of liberty. This stands in contrast to jurisdictions such as Canada and Europe, where human rights courts have interpreted proportionality and human dignity to allow flexibility in sentencing, thereby legitimizing intermittent imprisonment.²⁰

Another normative barrier emerges from the lack of integration between the criminal justice system and broader social welfare systems. Installment-based imprisonment depends on offenders' ability

to maintain employment, caregiving roles, or educational obligations while serving modular sentences. Indonesia's legal system does not yet

²⁰ Ali Masyhar et al., "Reclaiming the Unwritten: Living Law's Prospects under Indonesia's 2023 Penal Reform," *Jambe Law Journal* 8, no. 1 (2025): 255–85, <https://doi.org/https://doi.org/10.22437/home.v8i1.502>.

incorporate social welfare considerations such as poverty, family status, employment vulnerability, or caregiving responsibilities into sentencing determinations. While certain judges may consider socioeconomic impact informally, there is no statutory mandate requiring courts to assess the socioeconomic consequences of imprisonment. This absence restricts the normative justification for adopting installment-based punishment, which fundamentally aims to mitigate disproportionate socio-economic harm without negating penal accountability.

Institutionally, the correctional system lacks legally defined responsibilities for supervising offenders during periods outside the facility in an intermittent sentencing model. Laws and regulations governing probation officers, community supervisors, and correctional officers do not contemplate hybrid custody statuses where an inmate alternates between confinement and temporary release as part of the sentence structure. The absence of supervisory frameworks creates a normative vacuum, as there is no legal mechanism to monitor compliance, respond to violations, or ensure public safety during periods of temporary release. Without explicit legal duties and operational guidelines, installment-based imprisonment cannot be safely implemented within the existing statutory architecture.

The normative structure of Indonesia's sentencing guidelines also contributes to the barriers. Although the Supreme Court has established general sentencing guidelines, they emphasize proportionality, public order, and the gravity of the offense, without offering guidance on flexible execution modalities. Sentencing guidelines do not contemplate installment-based imprisonment, do not provide criteria for selecting offenders eligible for modular incarceration, and do not address how custodial time should be calculated in segmented intervals. In jurisdictions that use intermittent sentences, guidelines are essential to ensure consistency and prevent unequal treatment. The absence of such guidance in Indonesia represents a significant normative omission that restricts judicial willingness to innovate. The cultural-normative orientation of Indonesian punishment philosophy continues to privilege the expressive function of imprisonment, namely, the demonstration of state authority and social condemnation of wrongdoing. Full-time imprisonment symbolically reinforces state dominance over criminal behavior.

Installment-based imprisonment, which requires periodic release, may be perceived as weakening this expressive function. Such cultural sentiments influence legislative drafting, judicial interpretation, and bureaucratic attitudes. Without a shift in normative penal culture that redefines the meaning and purpose of imprisonment, legislative or judicial acceptance of installment-based sentencing remains constrained by symbolic expectations associated with continuous custody.

B. Comparative Models of Intermittent and Modular Custodial Sentences

Comparative experience shows that intermittent and modular custody only “work” when lawmakers treat time-in-prison as a resource that can be deliberately sequenced, rather than a continuous block that must be served without interruption. Jurisdictions that succeed in operationalizing three pivots at once: statutory permission to segment custody, judicial tools to tailor schedules, and correctional supervision robust enough to monitor people when they are out of the cell but still under sentence. Where any one of these three is missing, intermittent custody collapses into either informal leniency or, conversely, rigid full-time imprisonment dressed in new vocabulary.

Common-law systems that allow short custodial terms to be served intermittently typically hard-cap eligibility by sentence length and require a companion supervision order. This architecture is not cosmetic; the cap prevents judges from pushing serious cases into a light-touch regime, while the supervision order transforms “days out” into a structured period with enforceable conditions. The tight coupling of intermittent custody with probation-like oversight is the first comparative constant. It recognizes the asymmetry of control: the state’s grip is weaker when the person is out of the facility, so law must replace physical custody with legal conditions, reporting duties, curfews, and verification technologies. Systems that omit this coupling either drift toward net-widening, multiplying technical breaches, or toward impunity, eroding deterrence because violations have no teeth.

Civil-law jurisdictions that deploy modular custody tend to frame it as *semi-liberty* or *fractionated execution*, in which the person works or studies

in the community but sleeps in custody or serves the sentence in scheduled blocks. The doctrinal theory differs, emphasizing *resozialisierung* or social reinsertion. Still, the functional levers are strikingly similar: tight eligibility criteria, individualized plans, and real-time coordination among the prison administration, employers, and, sometimes, municipal social services. Where this model becomes credible is in the design of “interfaces”: labor law (to protect continued employment), family law (to recognize caregiving obligations), and victim-restitution regimes (to channel income toward redress). Without these interfaces, modular custody becomes punitive theater, symbolic flexibility with little real mitigation of social harm.

A second comparative constant is the *granularity of time*. Successful frameworks do not limit themselves to a single pattern (e.g., “weekend jail only”). They provide a palette of time-slicing options: weekends, several days per month, nightly custody, or short repeatable bursts selected to fit the person’s work cycles, caregiving duties, or treatment schedules. Importantly, this granularity is rule-bound: the statute or sentencing guidance sets default templates, and any deviation must be justified on record by reference to risk, proportionality, and practicability. The absence of such templates creates disparity; too many templates, by contrast, overwhelm administrators and produce erratic practice. Jurisdictions that strike the balance do so by anchoring two or three standard patterns and allowing limited, reasoned variation.

The third constant is *risk triage*. Comparative practice uses structured risk-needs tools to exclude high-risk persons from intermittent custody and to shape conditions for those admitted. The tool is not a talisman; miscalibration can import bias, but it supplies a transparent, auditable basis for eligibility and intensity. Where risk triage is missing, judges either over-admit (triggering public-safety backlash after predictable failures) or under-admit (starving the regime of legitimate candidates). Mature systems confront this by combining actuarial screens with professional judgment and, crucially, by limiting intermittent custody to sentences already deemed short: the less time at stake, the smaller the downside risk of segmentation.

A sharp contrast emerges in how jurisdictions respond to *non-compliance*. In robust models, breach hierarchies are explicit; minor

technical violations prompt swift but proportionate sanctions, extra reporting, added nights, community service, while willful or repeated non-compliance triggers conversion to continuous custody.²¹ The key is immediacy; delays dilute credibility and encourage strategic misbehavior. Systems that rely on slow contempt hearings or overloaded violation dockets find intermittent custody politically fragile; a single high-profile failure can sink the policy. By comparison, designs that empower correctional authorities to apply “graduated responses,” subject to rapid judicial review, maintain both fairness and bite.

Cost and capacity are the key determinants of success. Intermittent custody shifts supervision from walls to workflows, intake planning to align schedules with employment, verification to confirm attendance at work or study, data systems to reconcile “served days” across months, and transportation security for entry/exit cycles. Jurisdictions that pre-price these tasks and budget for them often find them cheaper per capita than continuous custody, but not costless to stabilize practice. Those that assume savings without investing in supervision infrastructure produce brittle regimes that courts abandon after repeated administrative failures.

Comparative practice also illustrates that *victim-facing design* is a differentiator, not an afterthought. Where modular custody is synchronized with restitution deduction at source, payment calendars aligned with payday, and enforcement escalates for missed payments, public legitimacy improves, and judicial uptake rises. Inversely, where restitution is nominal or decoupled from the sentence schedule, intermittent custody appears to be preferential treatment with little compensatory value to the person harmed. Jurisdictions that make victims’ interests operational through legally secured wage assignments, periodic accounting, and the possibility of converting “out days” into additional work hours earmarked for restitution avoid that legitimacy trap.²²

Technology matters, but only after law and process. Electronic monitoring (EM) is frequently leveraged to stabilize out-of-cell periods,

²¹ Evan K. Rose, “Who Gets a Second Chance? Effectiveness and Equity in Supervision of Criminal Offenders,” *The Quarterly Journal of Economics* 136, no. 2 (March 2021): 1199–1253, <https://doi.org/10.1093/QJE/QJAA046>.

²² Derrick Franke, David Bierie, and Doris Layton Mackenzie, “Legitimacy in Corrections,” *Criminology & Public Policy* 9, no. 1 (February 2010): 89–117, <https://doi.org/10.1111/J.1745-9133.2010.00613.X>.

albeit with strict proportionality, short-range RF for curfew compliance, or GPS for tailored exclusion zones.²³ The more refined the schedule, the more valuable EM becomes as a low-intrusion verification tool. Yet the comparative lesson is cautionary; EM cannot substitute for risk triage or for clear breach pathways. Where EM is deployed without these foundations, net-widening follows as people accumulate violations for technical blips rather than criminogenic behavior, undermining the very equity that modular custody is supposed to advance.

A further comparative theme is *sentencing guidance*. Jurisdictions that normalize intermittent custody publish matrices that cross-tab offense categories with risk levels, sentence lengths, and permissible segmentation patterns. Judges are required to state reasons, particularly when deviating from the matrix. This dual mechanism guidance plus reason-giving expressly targets disparity. It also disciplines appellate review: higher courts can interrogate proportionality and practicability without relitigating the entire sentencing exercise. In systems lacking such guidance, uptake is personality-driven and fragile, oscillating with the preferences of individual judges or local prosecutors.

Some systems that once relied on *periodic detention* have deliberately migrated to *community-based intensive orders* executed in the community, with strict conditions, curfews, programs, and community work, while abolishing overnight custody blocks. The political economy of that move is instructive. Periodic detention required prison infrastructure for short stints and generated churn; intensive community orders shifted resources toward supervision, treatment, and employment support. The trade-off is symbolic: less “jail” in the literal sense, more accountability by condition. The lesson for modular custody is that symbolism must be managed: where public trust demands visible custody, intermittent jail time can serve as the expressive anchor while most rehabilitative work happens outside.

Comparative law also exposes *labor-law frictions*. Modular custody presumes employers will tolerate predictable, bounded absences. Where employment protection statutes prohibit adverse action for court-mandated schedules, uptake is feasible; where no protection exists, workers

²³ Rita Haverkamp and Gunda Woessner, “The Emergence and Use of GPS Electronic Monitoring in Germany: Current Trends and Findings,” *Journal of Technology in Human Services* 34, no. 1 (January 2016): 117–38, <https://doi.org/10.1080/15228835.2016.1139918>.

are let go, and the equity dividend evaporates. Strong models, therefore, codify employer-notification protocols, protect against termination for compliant schedule-keeping, and offer tax or insurance incentives for retaining sentenced employees. Absent these supports, modular custody risks entrenching advantage: only those with unusually accommodating employers can benefit.

Family-care interfaces follow the same logic. Jurisdictions that allow judges to consider caregiving obligations at the sentencing stage, supported by proof and, where needed, social-service verification, both humanize sentences and reduce downstream harm to dependents. Safeguards are essential; the aim is not to privatize punishment in the home, but to avoid needless collateral damage while accountability remains intact. Clear standards for when caregiving justifies pattern selection prevent the slippage from individualized justice to class privilege.

A persistent comparative hazard is *misclassification*. When intermittent custody is used as a “soft landing” for cases that warrant full non-custodial sanctions (such as community work or supervision alone), the system unnecessarily expands penal control. The cure is to embed modular custody within a *least-restrictive* ladder: courts must ask first whether a non-custodial sentence suffices; only if the answer is no and the custody quantum is short should intermittent custody be considered. This ordering preserves the reform’s equity rationale and prevents hidden net-widening.

Another hazard is *administrator drift*: prisons or probation services facing workload spikes quietly push judges to choose the simplest pattern (usually weekends) regardless of fit. Over time, the regime calcifies into a one-size template, eroding individualized justice. Comparative systems counteract this by conducting periodic audits of pattern distributions and publishing anonymized dashboards that reveal whether demographics, offense types, and work patterns are being fairly accommodated. Transparency is a normative tool; it disciplines practice and protects against creeping simplification.

Where modular custody interacts with *drug policy* or *public-order offenses*, political scrutiny intensifies. Successful jurisdictions fence intermittent custody off from categories that predictably trigger public alarm unless strict treatment or exclusion conditions are in place. The

lesson is not categorical exclusion per se, but *conditional inclusion* with heightened safeguards, treatment compliance, place bans, and swift responses to breaches. The architecture must be explicit; ambiguity breeds scandal, and scandal kills reform.

The most subtle comparative lesson is about *time accounting*. Systems that credit each custodial segment cleanly and resolve partial days with bright-line rules avoid downstream litigation and resentment. Those who improvise, counting transport time here, excluding intake delays there, generate a sense of arbitrariness that corrodes legitimacy. Codifying equivalency rules (e.g., “each completed night equals one day served,” “late arrival beyond X minutes converts the segment to breach”) sounds pedantic but is the practical backbone of modular custody.

On appellate oversight, jurisdictions that succeed treat modular custody as an *execution architecture* reviewable for reasonableness and proportionality, not as a discretionary indulgence unmoored from principle. Appellate courts demand articulated links: why the pattern fits the offense gravity, risk profile, work and care duties, and prospects for restitution. This doctrinal discourse matters; it constructs a jurisprudence of segmented liberty that lower courts can cite, pushing practice away from idiosyncrasy toward principled uniformity.

Comparative evidence further suggests that *local governance* shapes outcomes as much as national law. Counties or regions that co-locate scheduling, verification, and violation response inside a single team outperform those that scatter responsibilities across agencies. The operative unit is not the statute but the “sentence management cell”: a multidisciplinary group that can recalculate segments when employers change shifts, swap EM devices, trigger graduated sanctions the same day, and liaise with victims’ services about missed restitution. Without this cell, modular custody degrades into paperwork; with it, modular custody becomes a living system capable of absorbing real-world shocks. The jurisdictions that entrench modular custody make the *communication strategy* part of the design. They avoid framing it as leniency and instead present it as *precision punishment*, the same quantum of custody, delivered in a way that protects public safety, preserves employment, sustains caregiving, and accelerates restitution. Public reporting how many breach responses were imposed, how much restitution was paid, and how many

jobs were retained stabilizes legitimacy. In the absence of that narrative, isolated failures define the policy.

Taken together, these comparative patterns generate a coherent picture of what intermittent and modular custody require to function: statutory segmentation with sentence-length caps; mandatory pairing with supervision, granular but rule-bound time templates; calibrated risk triage, swift, tiered breach sanctions, funded supervision infrastructure, synchronized restitution, proportionate use of EM, published guidance matrices and reason-giving, labor- and family-law interfaces, least-restrictive ordering to prevent net-widening, transparent audits to prevent administrator drift; bright-line time accounting, appellate jurisprudence enforcing proportionality; integrated local sentence-management teams, and a public narrative that frames modular custody as precision, not indulgence. These are not ornamental features but structural conditions. Where they are present, intermittent custody becomes a disciplined, humane instrument. Where they are absent, it becomes either an empty gesture or an administrative burden that courts quickly abandon.

C. Future-Oriented Penal Principles Supporting Installment-Based Imprisonment

The evolution of penal policy increasingly emphasizes adaptability, proportionality, and the minimization of collateral social harms, positioning installment-based imprisonment as a forward-looking alternative that aligns with modern penal principles. Traditional imprisonment, designed for a pre-industrial society with simple labor patterns and limited social mobility, now clashes with the economic realities, caregiving dynamics, and structural inequalities that define contemporary life. Future-oriented penal principles reject the assumption that punishment must remain spatially and temporally monolithic. Instead, they reconceptualize punishment as a normative instrument capable of calibration, where the deprivation of liberty can be distributed over time in ways that maintain accountability while reducing unnecessary social disruption. Within this theoretical movement, three major frameworks provide strong justification for installment-based

imprisonment, Rawlsian distributive justice, Ashworth's penal minimalism, and Duff's communicative theory of punishment.

The first forward-looking principle emerges from John Rawls's framework of distributive justice, which asserts that state institutions must be organized so that inequalities are arranged to the greatest benefit of the least advantaged.²⁴ Applied to punishment, Rawlsian justice demands a sentencing system that does not amplify existing socio-economic vulnerabilities.²⁵ Full-time imprisonment disproportionately harms low-income offenders, particularly those who are sole wage earners or informal laborers whose economic stability is exceptionally fragile. In Rawls's schema, justice is violated not simply by excessive punishment, but by social arrangements that impose disproportional burdens on specific social classes. Installment-based imprisonment directly addresses this asymmetry by preserving offenders' ability to work, maintain family structure, and avoid catastrophic poverty traps while still fulfilling custodial obligations.²⁶ The principle of fair equality of opportunity further strengthens the argument that punishment should not destroy the structural opportunities that allow individuals to reintegrate into society. Continuous imprisonment collapses opportunity; modular imprisonment seeks to preserve it. In this sense, a segmented sentence becomes a Rawlsian mechanism for harmonizing the deprivation of liberty with the moral imperative to prevent institutional punishment from compounding structural disadvantage.

A second future-oriented foundation is provided by Andrew Ashworth's theory of penal minimalism, which asserts that punishment must always be the least restrictive means compatible with legitimate penal goals.²⁷ Penal minimalism does not reject imprisonment but insists that its use must be strictly necessary and proportionate. Under this framework,

²⁴ Joshua Shaw, "Justice in Emmanuel Levinas and John Rawls," *International Journal of Philosophical Studies* 28, no. 4 (August 2020): 471, <https://doi.org/10.1080/09672559.2020.1805489>.

²⁵ Pan Mohamad Faiz, "Teori Keadilan Jhon Rawls," *Jurnal Konstitusi* 6, no. 1 (2009): 135–36, <https://doi.org/http://dx.doi.org/10.2139/ssrn.2847573>.

²⁶ B. Honig, "Rawls on Politics and Punishment," *Political Research Quarterly* 46, no. 1 (March 1993): 99–125, <https://doi.org/10.1177/106591299304600108>.

²⁷ A. P. Simester, Antje du Bois-Pedain, and Ulfrid Neumann, "Liberal Criminal Theory: Essays for Andreas von Hirsch," *Liberal Criminal Theory: Essays for Andreas von Hirsch*, January 2014, 1–375, <https://doi.org/10.5040/9781474200868>.

the rigidity of traditional imprisonment becomes increasingly difficult to justify when less harmful structures such as intermittent custody can achieve similar objectives. Penal minimalism rejects excessive penal intrusion and emphasizes minimizing penal footprints, particularly in cases involving low-risk offenders. Installment-based imprisonment is a natural extension of this logic: it retains the communicative and deterrent functions of imprisonment. Still, it compresses its harmful side effects by allowing the sentence to be carried out in a calibrated temporal sequence. Importantly, minimalism shifts evaluative focus from the symbol of punishment to its functional impact. What matters is whether the sanction achieves its goals with minimal degradation to the offender's dignity and social integration. Modular imprisonment embodies that logic by aligning penal severity with human needs rather than treating incarceration as an indivisible, all-or-nothing intervention.

The third theoretical foundation arises from Antony Duff's communicative theory of punishment, which conceptualizes punishment as a moral dialogue between the state and the offender.²⁸ Under this framework, the purpose of punishment is to communicate censure, elicit acknowledgment, and promote moral reform, not to incapacitate unnecessarily or inflict gratuitous suffering. Duff's theory is inherently relational, foregrounding the social context of wrongdoing and the responsibilities owed to victims, communities, and families.²⁹ Installment-based imprisonment aligns closely with this communicative ideal because it allows the offender to internalize the communicative message of condemnation while simultaneously performing constructive social roles, such as working, caregiving, or providing restitution. Continuous imprisonment risks silencing communication by severing the offender from the relational networks that give moral dialogue meaning. Intermittent custody maintains the communicative channel; the offender experiences the moral weight of imprisonment without being removed from the social context necessary for genuine moral engagement. From a

²⁸ Kimberley Brownlee, "The Offender's Part in the Dialogue," *Crime, Punishment, and Responsibility: The Jurisprudence of Antony Duff*, September 2011, 54–67, <https://doi.org/10.1093/ACPROF:OSO/9780199592814.003.0004>.

²⁹ Massimo Renzo, "10 Responsibility and Answerability in the Criminal Law," *The Constitution of the Criminal Law*, May 2013, 209–36, <https://doi.org/10.1093/ACPROF:OSO/9780199673872.003.0010>.

communicative standpoint, punishment executed in installments becomes a structured series of morally meaningful interruptions rather than a prolonged period of social erasure.

These theoretical frameworks collectively challenge the traditional assumption that imprisonment must be temporally continuous to be morally or legally valid. The future-oriented penal landscape recognizes that the social costs of imprisonment have grown disproportionately, especially in economies where precarious employment, single-parent households, and informal work dominate. Punishment that indiscriminately destroys livelihood and family stability ceases to be morally defensible when less destructive mechanisms exist. Installment-based imprisonment becomes a mode of future-proofing penal practice; it preserves the expressive and deterrent functions of imprisonment while adapting to the complexity of modern socioeconomic life.

Equally important is the future-oriented shift toward individualized justice, which requires sentencing structures capable of adapting to each offender's specific conditions. Installment-based imprisonment allows courts to calibrate punishment to reflect a person's employment schedule, caregiving responsibilities, health needs, or rehabilitative plan. This flexibility is not a luxury but a response to the empirical reality that punishment impacts individuals unequally depending on their social position. Modern penal theory increasingly acknowledges that uniform punishment often produces unequal suffering. An offender with family responsibilities experiences imprisonment differently from one with stable financial reserves. Future-oriented sentencing incorporates this individualized lens without undermining the rule of law by embedding structured, transparent criteria that determine when modular imprisonment is justified.

The rise of risk-responsive penal frameworks also supports the shift toward modular custody. Contemporary criminology emphasizes that low-risk offenders do not benefit and often deteriorate under continuous imprisonment due to criminogenic institutional environments.³⁰ Segmented custody prevents exposure to long-term carceral subcultures

³⁰ Seth J. Prins and Adam Reich, "Criminogenic Risk Assessment: A Meta-Review and Critical Analysis," *Punishment and Society* 23, no. 4 (October 2021): 578–604, <https://doi.org/10.1177/14624745211025751>;ISSUE:ISSUE:DOI.

while maintaining accountability through structured, short-term confinement. Future penal models are increasingly designed around stratified risk management rather than one-size-fits-all incapacitation. Installment-based imprisonment is inherently risk-sensitive: it is suitable only for individuals whose behavioral profiles and offense patterns allow safe intermittent release. The future direction of penal governance is thus toward tailoring rather than expanding custodial power.

Future-oriented penal principles also integrate restorative justice as a central pillar. Restorative practice prioritizes repairing harm, ensuring offender accountability, and empowering victims. Traditional imprisonment obstructs restitution because the offender is deprived of income. A modular sentence allows offenders to maintain employment and direct portions of their income toward compensation. This creates an alignment between penal strategy and restorative values: punishment is not merely the infliction of deprivation but an opportunity to restore social equity. In future penal ecosystems, the legitimacy of punishment increasingly depends on its capacity to facilitate, not obstruct, repair.

A further dimension involves technological evolution in penal supervision. Future sentencing models will increasingly rely on proportional electronic monitoring, biometric check-ins, and digital reporting systems to verify compliance. Installment-based imprisonment is particularly compatible with this direction because intermittent release periods require scalable monitoring tools that ensure accountability without recreating full-time custodial surveillance. The future of penal control is neither wholly carceral nor wholly community-based; it is a hybrid precisely the structural space in which modular custody sits.

The shift toward future-oriented penal design also reflects changing societal values around work, family, and community participation. Modern societies increasingly view stable employment, financial independence, and caregiving relationships as public goods that should not be destroyed unnecessarily by the penal system. Installment-based imprisonment resonates with this value shift because it treats incarceration not as a total institution but as a calibrated intervention that should avoid collateral damage wherever possible. The future of punishment is tied to the idea that the state's right to harm must be exercised with restraint, and restraint is operationalized through temporal segmentation.

Moreover, a forward-looking penal system recognizes the structural inequalities embedded in traditional punishment. Data from numerous jurisdictions show that low-income individuals, informal workers, and marginalized communities bear a disproportionate share of imprisonment's burdens. When properly regulated, installment-based imprisonment becomes an equitable tool that reduces the disproportionate impact of penal sanctions. Future-oriented penal principles, therefore, frame modular custody not as leniency, but as justice recalibration, the same quantum of punishment, distributed in a manner that does not amplify structural injustice. Future penal theory increasingly demands penal sustainability, a principle that asks whether punishment regimes are socially, economically, and institutionally sustainable over time. Full-time imprisonment is notoriously expensive, criminogenic, and corrosive to social participation. Modular imprisonment distributes the carceral burden across time, reducing institutional strain while maintaining formal punishment. Sustainability is not a mere managerial principle but a normative one: a penal system that perpetuates overcrowding, poverty, and recidivism ceases to be legitimate in the eyes of future generations. Modular imprisonment anticipates this trajectory by embedding adaptability, proportionality, and social protection into its core design.

Conclusion

Indonesia's current sentencing architecture, which remains heavily dependent on continuous full-time imprisonment, is increasingly unable to respond to the realities of a complex and unequal society. Chronic prison overcrowding, the disproportionate socio-economic burden borne by low-income offenders, and the limited rehabilitative value of conventional custody all demonstrate the inadequacy of traditional penal models. In this context, installment-based imprisonment should not be understood as leniency, but as a principled restructuring of custodial punishment that preserves state censure while reducing the unnecessary collateral harms of incarceration. Comparative experience shows that intermittent and modular sentencing systems can balance accountability, public safety, and social integration through flexible custody arrangements

supported by supervision, risk assessment, and clear enforcement mechanisms. Their legitimacy rests on a strong legal framework, including statutory regulation, transparent judicial discretion, and coordinated correctional administration. This model is further justified by contemporary penal theory. Rawlsian distributive justice rejects punishment that deepens social inequality, Ashworth's penal minimalism requires the least restrictive means consistent with legitimate penal aims, and Duff's communicative theory views punishment as moral censure rather than prolonged incapacitation. Together, these perspectives show that installment-based imprisonment is not a deviation from penal rationality, but a refinement of it. Overall, the findings suggest that Indonesia has both the normative basis and the policy urgency to move toward a more flexible, humane, and socially responsive sentencing framework.

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GENERATIVE AI STATEMENT

During the preparation of this manuscript, the author utilized generative artificial intelligence as a supportive tool to assist in translation and to improve the quality of English writing. Following its use, the author conducted a thorough critical review, editing, and validation to ensure accuracy and scientific integrity. Full responsibility for the final content remains with the author. The use of artificial intelligence was limited to a supportive role and is not recognized as constituting authorship. No data analysis or substantive interpretation was carried out by artificial intelligence without human oversight.

About Author(s)

Siswanto is a Senior Lecturer (Lektor Kepala) specializing in Criminal Law, Legal Drafting, and the Humanities. Primary education was completed at SDN Citra Kusuma Purbalingga in 1976, followed by SMP Bobotsari Purbalingga in 1980 and SMAN Purbalingga in 1984. The Bachelor of Law (S1) degree was obtained from Universitas Jenderal Sudirman Purwokerto in 1990, and the Master of Law (S2) degree from the same university's postgraduate program in 2005. The Doctorate in Law (S3) was completed in 2023 at the Doctoral Program of UNISSULA Semarang. Professional experience includes serving as a permanent lecturer at Universitas Pancasakti (UPS) Tegal since 1992, holding the position of Vice Dean I of the Faculty of Law from 1999 to 2003, leading the university's Research and Development Division from 2006 to 2012, and chairing the Center for Legal and Humanistic Studies from 2012 to 2023. Additional academic service includes long-standing membership in the Legal Consultation and Aid Institute (LKBH) of UPS Tegal since 1992.

Ariesta Wibisono Anditya is a Ph.D. student at the Faculty of Law, University of Malaya, Malaysia, specializing in cyber law. His current research focuses on blockchain, cryptocurrency, criminal law, criminal justice, criminology, and law and technology. He holds a Master of Laws from Universitas Gadjah Mada and a Master of Notary from Universitas Indonesia. He has received several international research awards and has published in Scopus-indexed journals. Email: 22067014@siswa.um.edu.my.

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