



Formulation Policy of Weekend Detention In Indonesia Criminal Law Reform

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Abstract

The purpose of this study is to explain and describe how the formulation policy of weekend detention in Indonesia's positive law and how the formulation policy of weekend detention in the Indonesian criminal law reform in the future (*ius constituendum*). This research uses normative juridical method of research which is legal research conducted by examining the library material in the form of secondary data such as law or library material as well as other documents that support and data retrieval technique used is library research techniques and analysis of data used is interactive analysis model. The results showed that (1) criminal formulation policy the weekend detention in Indonesia's positive law of the arrangement in the correctional Institution is not regulated about the policy of weekend detention. However, in Indonesian positive law formulation has an assimilation program which is one of the programs in the actual criminal implementation almost resembles a weekend detention system. (2) The policy formulation of the weekend detention in the renewal of Indonesian criminal law (penal policy) can be done by the study of the law comparative countries such as France, Portugal, Vanuatu, Queensland and New South Wales that have implemented a relatively advanced prison system that is the weekend detention. The formulation of weekend detention that is expected to be valid in Indonesia in the future is to develop it firmly in the draft Penal code and paste it in article 65 the Draft Penal code or if the government is about to arrange codification in the law of criminal implementation, the weekend detention is entered in one of the types of criminal sanctions.

Keyword: Penal Policy; Weekend Detention

INTRODUCTION

Criminal deprivation of independence is the type of sanction most often imposed by judges in every criminal case. According to Barda Nawawi Arief, 90% of people were sentenced to imprisonment. Judges in dropping or sentenced imprisonment to every perpetrator often without seeing the history of life, social circumstances, economic circumstances, motives, attitudes of actors, etc. (guidelines of punishment) (Utomo, 2016). The deprivation of independence or imprisonment is regarded as an effective means in preventing and tackling the crimes occurring within the community. Imprisonment according to

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Lamintang and Theo is a criminal in the form of restriction of freedom of movement from a convicted, which is done by closing the person in a correctional institution, by obliging people to obey all the rules of order that apply in the correctional institution, which is associated with any other order action that has violated the rules (Lamintang & Theo, 2017).

The imprisonment system in its implementation is assessed as yet unable to improve the perpetrator and create a deterrent effect, proven by the number of ex-convicts who committed criminal acts again or Recidivis. In addition, imprisonment also poses a negative effect on every criminal either while undergoing a criminal period or after free and returning to society. A mild theft perpetrator, for example, a person sentenced to imprisonment is worried about getting a criminal transfer in prison. A criminal offence can share knowledge in committing a criminal offence with a fellow convict. Another condition that is a negative effect is the presence of negative stigmatisation. Ex-convicts often get labellization as criminals to watch out for, consequently they are a lot of difficulties in getting a job back. The only way they can do is to commit the crime again to meet the needs of his life.

Currently there is a crisis of belief in the effectiveness of imprisonment implementation in Indonesia. The imprisonment effectiveness problem also became the concern of the fifth UN Congress in 1975 regarding Prevention of Crime and The Treatment of Offenders. In the Congress it was explained that the effectiveness of imprisonment became a debate in most countries and there is a tendency to ignore the ability of the institutions in supporting the control or reduction of crime (Arief, 2000). Efforts to find criminal alternatives for mild criminal acts continue to be sought, one way is by study comparison on other countries' legal systems. Ius Comparative gives a view on the importance of conducting a comparison with the legal system adopted by other countries to provide new knowledge in order to form a better legal construction in the future (*ius constituendum*).

Legal systems in different countries such as France, Portugal, Vanuatu, Queensland, and New South Wales recognize a system called semi-detention or periodic detention or weekend detention. Weekend detention is an alternative to sanctions that can be dropped by judges to prisoners when the judge has no other decision that is deemed most appropriate. Thus prisoners are in only special prison on Saturdays and Sundays, and the other day can be used to work like ordinary people (Putusan Mahkamah Konstitusi No. 022/PUU-III, 2005). The current Penal Code of Indonesia is the penal code which is sourced in the colonial Dutch East Indies which in practice is no longer appropriate to the condition of Indonesian society today. This fact is what led to the need to reform criminal law in Indonesia. One of Indonesia's criminal law reform efforts is to create a policy of countermeasures crimes or criminal politics. Criminal politics is a rational effort of society in tackling evil (Arief, 2011).

Establishing imprisonment sanctions in legislation as one means of tackling crime problems is one part of criminal policy or political crime. Implementing criminal politics among other things means making planning for the future in dealing or tackling issues related to crime. Indonesia's legal renewal efforts need to be improved more directed and integrated, particularly on criminal alternatives to mild criminal acts such as the famous weekend detention in other countries. In general, the renewal of criminal law according to Barda Nawawi Arief aims to overcome social issues in order to achieve national goals (social welfare) and is specifically part of the social defence efforts (social defence) (Arief, 2011). Therefore, the application of alternative criminal penalties of weekend detention or Saturday Sunday imprisonment against mild criminal acts is expected to be in accordance with the purpose of renewal of criminal law and minimize

the problems that occur in correctional institutions.

Based on the explanation above, the authors formulate the following problems:

1. What is the policy of the Saturday Sunday prison formulation (weekend detention) in the positive law of Indonesia?
2. What is the policy of the Saturday Sunday prison formulation (weekend detention) in the renewal of Indonesian criminal law in the future?

The study aims to describe and describe the Saturday Sunday prison formulation (weekend detention) policy in Indonesian positive law and explain and describe the Saturday Sunday prison formulation policy (weekend detention) in the future renewal of Indonesian criminal law (*ius constituendum*).

The concept of theory in this study used combined sentence theory. The many theories of punishment expressed by scholars consider the various aspects of the target to be achieved in the allotment of punishment (Widyawati, 2018). A combined sentence theory arose due to objections to retaliatory or absolute theories and relative theories. The goal of the sentence according to the combined theory is to scare a person, so as not to commit a criminal offense either to the perpetrator itself or to the public (general preventative) and by punishment will educate the perpetrators of the crime so that it becomes a better person in society (special preventative). Thus the combined theory seeks to integrate concepts embraced by absolute theories and relative theories. So it can be concluded that the purpose of punishment is in addition to the rationment of punishment should be deterrent, also must provide protection and education to the community and convicted.

RESEARCH METHOD

Researchers using the type of research used in this thesis are types of normative or juridical juridical law research. Normative juridical research that is legal research examining the law from an internal perspective, with the object of its research being the legal norm (Widyawati, 2020). The data source used in this study is secondary data. Secondary data provides explanations of primary data such as draft law, research results, works by law, and so on (Soerjono Soekanto & Mamudji, 2014). Secondary data is a data that is generally ready made. The data source in the form of secondary data commonly used in normative legal research is divided into 3 (three), namely primary legal materials, secondary legal materials, and tertiary legal materials (Soerjono Soekanto & Mamudji, 2014). Data obtained from secondary data will be processed and analyzed qualitatively and subsequently the data is described so that it is called qualitative descriptive analysis. In this research step analysis used is Analysis Interactive Model of Miles and Huberman.

FINDING AND DISCUSSION

Weekend Detention Formulation Policy in Indonesian Positive Law

One of the efforts through the legislator legislation to conduct social protection and Crime prevention is to provide an alternative imprisonment by making a policy of formulation in the form of Saturday Sunday jail (weekend detention) previously not in our Penal Code. The formulation of criminal law in Indonesia in the case of a correctional institution is not regulated on the weekend policy detention. However, in

the formulation of positive law Indonesia has an assimilation program which is one of the programs in the actual criminal implementation almost resembles the weekend detention system as enforced in France, Portugal, Vanuatu, New South Wales, and other countries that belong to the concept of more advanced law and uphold human rights (human rights).

This assimilation is a tool or program applied for the acceleration of the resocialization so that the prisoners are expected to be re-integrated into the community with a better condition than before. In the legislation or positive laws that currently apply in Indonesia, the existence of the weekend detention has not been formulated or there is no type of sanctions that apply detention weekend system. But the prevailing assimilation system has the same breath as the weekend detention which is how to prepare convicts to re-integrated into society with a better condition than before (resocialization and rehabilitation), and not to do the crime back in the future. Possible implementation of the weekend detention system in Indonesia can happen, if there is a strong commitment from the Government, society, and prisoners.

The implementation of assimilation in convict coaching program is different from the weekend detention implementation, but what researchers need to emphasize is that this assimilation has the goal of preparing prisoners to practice mingling in the community and giving prisoners the opportunity to increase knowledge through education, improving skills, so that once out of prison a convict is ready to be deployed in the midst of society and society is ready to receive ex-convicts back to life in the community. The goal is that researchers are interested in weekend detention sanctions that apply in countries that have a weekend detention rules that are how to prepare the perpetrators return to live in the community and give them the opportunity to continue the work, improve knowledge and skills, and play an active role in society.

The implementation of assimilation in correctional development in Indonesia will describe further in this discussion to provide ease in creating alternatives to criminal prosecution in the form of weekend sanctions detention. Assimilation is one of the rights of inmates listed in Article 14 of the letter J Law No. 12 of 1995 on Correctional and must be paid by law. The rights of prisoners listed in Article 14 Law No. 12 of 1995 are as follows:

- a. Worship according to their religion or beliefs
- b. Get treatment, both spiritual and physical treatment
- c. Get education and teaching
- d. Get health service and decent food
- e. Raise complaints
- f. Obtaining reading materials and following other mass media broadcasts not prohibited
- g. Earn wages or premiums on work done
- h. Receive family visits, legal counsel or other specific persons
- i. Get a reduction in criminal period (remission)
- j. Get assimilated opportunity and family visit leave
- k. Obtain Conditional exemption
- l. Get a free holiday before
- m. Obtaining other rights in accordance with the prevailing laws and regulations

Law Number 12 of 1995 concerning correctional is the basis for Correctional Institution in carrying out its duty to regulate the correctional system based on Pancasila

and the Constitution of the Republic of Indonesia year 1945. Law Number 12 of 1995 is the parent of the Law on the execution of punishment and in the development of the correctional law is in the process of revision or adjustment with the current condition of the Indonesian nation. The concept of correctional law was established to strengthen the Indonesian correctional system which by Law Number 12 of 1995 on Correctional has embraced the concept of social reintegration in lieu of the concept of retaliation and repention. This law in addition to strengthening the concept of social reintegration also strengthened the concept of restorative justice adopted in the child criminal justice system and the renewal of Penal Code of Indonesia.

The Drafting of the Correctional Law will give breath and a new direction to the future correctional system. In the Drafting of the Correctional Law, assimilation is still a part of the arrangement in it. The assimilation arrangement in the Drafting of the Correctional Law is in Article 10. The setting of convict rights under Law No. 12 of 1995 and the Drafting of the Correctional Law is a discrepancy in which the Law No. 12 of 1995 all rights are included in a single article whereas in the Drafting of the Correctional Law shall be divided into two clauses, Article 9 governing the rights of inmates without a requirement while in Article 10 governs the rights of convicts on condition. Based on Article 9 of the Drafting of the Correctional Law, prisoners are entitled to:

- a. Worship in accordance with his religion or belief
- b. Obtaining care, both temporal and spiritual
- c. To receive education, teaching, and recreational activities and opportunities to develop potential
- d. Get health service and food that is worthy according to nutritional needs
- e. Getting Information Services
- f. Obtaining legal counseling and legal aid
- g. Submit complaints and/or complaints
- h. Obtaining reference materials and following unbanned mass media broadcasts
- i. Get treatment humanly and protected from acts of torture, exploitation, breeding, violence, and any actions that endanger physical and mental
- j. Obtain safety guarantees, wages, or premiums of employment
- k. Get social services, and
- l. Accepting or rejecting visits from families, advocates, escorts, and communities

While in Article 10 of the Drafting of the Correctional Law, inmates who have fulfilled certain requirements are entitled to:

- a. Remission (reduction of time for criminal)
- b. Assimilation (reintegration program of convicts by blending inmates in community life)
- c. Hiatus visit or visited by family (coaching program by giving inmates the opportunity to assimilate with family)
- d. Conditional leave (the process of construction of convicts sentenced to short imprisonment outside the prison)
- e. Free time leave (convict construction process that has the remaining short criminal period to integrate with family and society outside the prison)
- f. Parole (construction of prisoners outside the prison to integrate with

- families and communities)
g. Other rights in accordance with the provisions of laws

Law Number 12 of 1995 and the Drafting of the Correctional Law draft began to promote the reintegration and resocialization of prisoners to be able to establish a life back in the midst of society. Correctional programs must be prepared for reintegration and resocialization of convicts. Correctional Institution becomes the place to carry out coaching against prisoners. The construction of prisoners committed by correctional institutions must promote human rights. A convict who has made mistakes and has bothered other human rights, still the convicts still have human rights that are physically attached to each human being, therefore the human rights of convicts must be kept in mind in the construction process of correctional institutions including the right to obtain assimilation.

In the General Provisions of the Law Number 12 of 1995 does not provide an explanation of the understanding of assimilation, but the sense of assimilation is explained in article 1 point 9 Chapter I General provisions of Government Regulation Number 31 year 1999 on Coaching and Mentoring Correctional Residents who explained that assimilation is the process of coaching prisoners and correctional students conducted by blending prisoners and prisons in public.

Assimilation according to R. Achmad S. can be done in the midst of society continuously both in the form of groups and individuals, because the life of inmates in the correctional institution is different from the life of the community outside the correctional institution. This is very important because after the convicts have completed their period of life will live in the midst of society, so that inmates in the stage of its construction should not be separated or exiled from society, because the exile inmates from the community environment will result in the gap between convicts with society (Paleta, 2014).

In addition, in the explanation of Article 6 Paragraph (1) of Law No. 12 of 1995, assimilation that is the construction of correctional community in the correctional Institution is implemented intramural (in correctional Institution) and extracurally (outside the correctional Institution). Extracurally-conducted construction outside of the penitentiary is called assimilation, which is the process of coaching people in prison that meet certain requirements by blending them into the life of society.

Examural construction is also carried out by the correctional hall called integration, which is the process of mentoring the correctional community that has fulfilled certain requirements to live and be back in the midst of society with the guidance and supervision of correctional hall. More clearly the sense of assimilation contained in the regulation of the Minister of Justice and Human Rights of the Republic of Indonesia No. 03 of 2018 on the Terms and Procedures of Implementation of Assimilation, Parole, Free Leave, and Conditional leave Article 1 digit (4,) assimilation is the process of coaching prisoners and students in the correctional

The arrangement of the rights of prisoners, especially assimilation in other regulations, are listed in Article 36 of the Government Regulation Number 32 of 1999 on the Terms and Procedures for Implementing the Rights of Residents of the Correctional Community that Each convict and correctional students are entitled to assimilation.

Some regulations regarding the assimilation of prisoners that are the basis of legal inmate assimilation are as follows:

- 1) Law Number 12 of 1995 on Correctional;
- 2) Government Regulation Number 31 of 1999 on the Construction and Mentoring of

- Correctional Residents;
- 3) Government Regulation No. 32 of 1999 on Terms and Procedures for the Implementation of the Rights of Citizen of Correctional Community;
 - 4) Government Regulation No. 57 year 1999 of Cooperation on Organizing and Mentoring the Correctional Community;
 - 5) Regulation of the Minister of Justice and Human rights of Repubuk Indonesia Number M.2.Pk.04-10 years 2007 on Terms and Procedures for the Implementation of Assimilation, Parole, Free Leave, and Conditional Leave
 - 6) Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 03 of 2018 on Terms and Procedures for Granting Remission, Assimilation, Family Visiting Leave, Conditional Liberation, Free Leave, and Conditional Leave.

Assimilation is an effort to realize the purpose of the practice in the form of activations of both sides, the convicts including family inmates as well as society. Assimilation also aims to eliminate the bad image of post-punishment imprisonment, as well as prevent the refusal of society against former convicts. The purpose of assimilation can be found in article 4 of the Ministerial regulation of the Minister of Justice and Human Rights of Indonesian Government Number M. 2. Pk. 04-10 Year 2007 which reads:

- (1) Assimilation, parole, free leave and conditional leave should be carried out in a balance between the interests of general security and the development of convicts and correctional students.
- (2) Assimilation, parole, free leave, and conditional leave as intended in paragraph (1) aims:
 - a. Encouraging motivation or encouragement in prisoners and protégé in direction of achievement of coaching objectives.
 - b. Provide an opportunity for prisoners and protégé for education and skills to prepare self-reliant in the community after being free of criminal
 - c. Encourages communities to actively participate in correctional community.

Assimilation can be implemented with activities outside the correctional institution that is outside the institution, which is already in the midst of society. Forms of assimilation outside the correctional institution according to Article 62 Regulation of the Minister of Justice and Human Rights of Repubuk Indonesia Number 03 Year 2018 in the form:

- 1) Working on third parties either government agencies, private or individual. In this activity, a minimum security prisoner escort is the officer escorting with ordinary clothes as convicts depart for work and pick him up to return to correctional institution. Assimilation with third parties can foster the confidence of inmates to live in the midst of society and gain the trust of the community again and can be a meaningful progress made by correctional institutions;
- 2) work independently, for example to be a barber, a laundry, a repair shop, a radio repairman and others. This assimilation is given to inmates who have specific skills or skills;
- 3) Work on correctional institutions (prison) Open with minimum security level.
 - a. Follow the education, guidance and training skills outside the Correctional Institution
 - b. Following social activities and other coaching activities

Weekend Detention Formulation in Indonesian Criminal Law Reform

The effort to seek alternative penalties for mild criminal acts continues to be sought, one of the ways is by study comparison on other countries' legal systems. Ius Comparativum gives a view on the importance of conducting a comparison with the legal system adopted by other countries to provide new knowledge in order to form a better legal construction in the future (*ius constituendum*). Rudolf D. Schlessinger stated that Comparative Law is a method of investigation with the aim of gaining a deeper knowledge of certain legal materials, Comparative Law is not a regulatory device and legal principles, not a legal branch (is not a body of rules and Principles), Comparative Law is a technique or way of working on an element of foreign law that is actual in a legal matter (is the technique of dealing with actual foreign law elements of a legal problem) (Nawawi Arief, 2013).

There are some foreign terms regarding comparative law. Comparative law and foreign law are a term for differences in understanding. Comparative law learns various foreign legal systems with the intent to compare them while foreign law only learns foreign laws without intending to compare them. Comparative studies of Law are one of the ways in creating a legal or political renewal. By looking at the legal system of other countries can provide an overview for Indonesian legal system including seeking and creating criminal alternatives. Comparative legal studies have also become one of the rational efforts of society in tackling crime or criminal policy.

Policy or criminal countermeasures are essentially an integral part of the social defence effort and the effort to achieve social welfare. Therefore, it can be said that the ultimate goal or the primary purpose of criminal politics is the protection of people to reach the welfare of society. Thus, it can be said that criminal politics is an integral part of social politics, which is policy or effort to achieve social welfare.

The criminal law policy is essentially an attempt to manifest the criminal legislation to comply with the circumstances of a particular time (*ius constitutum*) and the future (*ius constituendum*). The logical consequences, criminal law policy is identical to the penal reform in a narrow sense, because as a criminal law system consists of culture, structure, and the substance (substantive) law. Because the law is part of the legal substance, the renewal of criminal law in addition to renewing legislation, also includes the renewal of basic ideas and criminal law.

Criminal policy consists of several phases to be able to achieve the objectives of social welfare and social defense, namely:

- a. The formulation stage, which is the legal enforcement phase in abstracto by the legislature. This stage is called the legislative policy phase.
- b. Application stage, which is the stage of application of criminal law by law enforcement officers from police to court. This stage is called the judicial policy phase.
- c. Execution stage, which is the stage of implementation of criminal law is concrete by the officers of criminal executor. This stage can be called the executive or administrative policy stage (Mulyadi, 2012).

In fact, the criminal law policy constitutes a complete or total criminal law enforcement process. Therefore, the three phases are expected to be a link chain that corbles in a system. Thus legislative policy or formulation stage is the most strategic early stage of the whole stage. The current Penal Code of Indonesia is sourced in the colonial Dutch East Indies which in practice is no longer appropriate to the condition of Indonesian society today. This fact is what led to the need to reform criminal law in

Indonesia. One of Indonesia's criminal law reform efforts is to create a policy against criminal or political crimes.

Indonesia's criminal law reform efforts need to be improved more directed and integrated, especially regarding criminal alternatives. To find or determine a criminal alternative can be done by means of comparative study of criminal law with other countries such as the type of weekend sanctions detention is already known in other countries. Weekend detention is one of the parts of the pipetting system that has been applied in various countries, this system can be categorized as a system that is relatively advanced, considering the rationing theory of punishment that requires the individualization of punishment in sentenced.

This research will try to see the weekend detention arrangement in France, Portuguese, Vanuatu, Queensland and New South Wales. The implementation of the weekend detention in those countries has no such a fundamental difference, the spirit and soul remain the same as how the weekend detention rights of the convicts remain protected despite having to undergo imprisonment. Weekend detention that apply in those countries also have the same breath as the assimilation program in building inmates in Indonesia. Setting weekend detention or in France is referred to as semi detention described in the Penal Code of French (Sub-Section1.-Semi-detention, Article 132-25 and Article 132-26). Article 132-25 Reads:

Where a trial court imposes a custodial sentence of one year's imprisonment or less, it may determine that the sentence is to be served in semi-detention where the convicted person establishes that he has a trade or profession, or regularly attends a course of education or a professional training course, or apprenticeship or temporary employment with a view to social rehabilitation, or that he plays a vital role in the life of his family, or need to undergo medical treatment.

The arrangement of the weekend detention or in France is called semi detention above mentioned that if the court as the institution that enforced the law and justice imposed the imprisonment under one year, the court may determine that the sentence can be lived semi-detention where the convicted person or perpetrator of the criminal is given the opportunity to continue his activities such as work, continuing profession or internship, continuation of health care , continuing education and skills, as well as giving the right to criminals who are the backbone of the family to keep their family members living in order to keep their family life awake.

The Penal Code of Portuguese also provides an arrangement related to weekend detention. Article 46 the Penal Code of Portuguese reads:

- (1) The imprisonment penalty of a period not exceeding 3 months, which is not substituted for a fine or other non-custodial penalty nor carried out on free days, may be executed in a regime of semidetention, if the convict agrees.
- (2) The regime of semi-detention consists in a deprivation of liberty that allows the convict to proceed his normal professional activity, his professional formation or his studies, with permission to stay out strictly limited to the fulfilment of his duties.

Article 46 paragraph (1) of the Penal Code of Portuguese above explains that for the perpetrator of the criminal act which is sentenced to imprisonment of no more than 3 (three) months in the weekend detention with the provisions of obtaining approval

from the convicted itself. Further mentioned in article 46 paragraph (2) that Semi Detention is a punishment of independence deprivation which allows a convicted person to continue normal activities of either professional work, as well as continuation of the study, with provisions limited to the fulfillment of his duties.

The next country that has implemented the weekend detention and already listed in the penal code is The Republic of Vanuatu. Vanuatu is an island country in the Southern Pacific Ocean, located to the east of Australia. In Article 44 Penal Code of Vanuatu reads:

- (1) In any case in which a person convicted of a criminal offence may be sentenced to imprisonment for a limited term in accordance with any provision of law, the court may in its discretion sentence such person in place thereof to undergo periodic detention for a term of not less than 1 month and not more than 6 months”.
- (2) Periodic detention shall mean the loss of liberty of the offender for not more than 36 hours between Friday evening and Sunday evening in each consecutive week throughout the term for which such periodic detention has been imposed. During such sentence the offender shall be obliged to perform community work without remuneration for periods not exceeding 8 hours in each day.
While in detention for such periods, the offender shall be treated as far as local circumstances allow as though he were undergoing a sentence of imprisonment.
- (3) In exercising its discretion under subsection (1) the court shall have regard to the nature of the offence, the age and circumstances of the offender including his occupation or employment, family circumstances, the prospects of his reformation and any other circumstances which it may consider relevant.

The weekend detention setting in Vanuatu is mentioned that criminals who may be subject to periodic detention penalties or other names of the weekend detention is if the court sentenced the prison to no less than 1 month and no more than 6 months and the implementation of each week is no more than 36 hours starting from Friday night to Sunday night and for days other than the day of detention used for ordinary activities such, occupations, education, and support his family. The Penal Code of Vanuatu also explained that the judges must pay attention to violations, age of actors, circumstances, occupations, family circumstances. This is if likened to the Concept of Penal Code of Indonesian is the same as the guidelines for punishment.

Queensland is one of the most specific and detailed states of Australia on the weekend Detention in the 1970 Act of the final week-imprisonment called the Weekend Detention Act No. 11 of 1970, in this law is also expressly stated in article 4 "It should be noted that a sentence of weekend detention shall not be imposed for any number of weekends in excess of twenty-six". The explanation is that the weekend detention penalty will not be imposed for the number of weekends over twenty-six. So in Queensland a weekend detention can only be imposed against those sentenced to imprisonment of approximately 6 months or no more than 26 weeks.

New South Wales is also one of the states of Australia, the prevailing system in New South Wales is not much different from that of Queensland's weekend detention system where the terminology used is periodic detention, the formulation in New South Wales expressly states the weekend detention/periodic detention can be dropped to a

person sentenced to imprisonment of more than 3 months but not more than 3 years. New South Wales has a law on periodic detention in the Periodic Detention of Prisoners Act 1981 as amended by the Periodic Detention of Prisoners Amendment Regulation 1999.

The pattern of the type of sanction in the Penal Code of Indonesia is actually general and ideal. The pattern of criminal rationing as a reference and guideline in making criminal legislation, because the Penal Code of Indonesia is the parent of the system and the pattern of criminal rationing against the regulations outside the Penal Code of Indonesia. In connection with the implementation of weekend detention penalty in Indonesia, it can be seen from the types of sanctions applied in the Penal Code of Indonesia, especially in article 10 of the Penal Code of Indonesia namely:

- a. basic punishments:
 1. capital punishment,
 2. imprisonment,
 3. light imprisonment,
 4. fine;
- b. additional punishments:
 1. deprivation of certain rights,
 2. forfeiture of specific property,
 3. publication of judicial verdict.

Departing from basic punishments types that apply in Indonesia, as stipulated in the the Penal Code of Indonesia (WvS) that weekend detention is not included in the underlying criminal types. Weekend detention is a type of new criminal sanction which is intended for renewal of the criminal law in the future (*ius constituendum*).

Formulation of the type of sanctions in future criminal law, especially in the weekend detention as a type of punishment (*Strafsoort*) used as one means in the prevention of crimes, then the weekend detention formulated in advance as a type of sanctions on the basic punishment aligned with other basic punishment, as stipulated in Article 65 Paragraph (1) of the Draft of the Penal Code of Indonesia Year 2019 that the basic punishment consists of:

1. imprisonment
2. tutupan
3. supervision
4. fine
5. social work

Additional punishment contained in Article 66 Paragraph (1) of the Draft of the Penal Code of Indonesia Year 2019 consist of:

1. deprivation of certain rights
2. forfeiture of specific property and/or bills
3. publication of judicial verdict
4. payment of damages
5. revocation of certain licenses
6. compliance with local customs obligations

Based on the provisions of article 65 paragraph (2) of the Draft of the Penal Code of Indonesia Year 2019 stating that the punishment order in paragraph (1) determines the weight of the light, the formulation of the weekend detention will be logical to be placed as a criminal subject under the imprisonment and tutupan and above the supervision, so that the pattern of the formulation is as follows, basic punishment consists of:

1. imprisonment
2. tutupan
3. weekend detention
4. supervision
5. fine
6. social work

Consideration in placing the weekend detention as above, because the weekend detention is a type of punishment that is carried out partly in correctional facility and partly outside the correctional facility. It can also be interpreted that the weekend detention, if viewed in a lighter quality of imprisonment and tutupan and more heavily than supervision. The pattern of formulation regarding the duration (light weight) in this Saturday Sunday jail refers to the formulation system contained in the the Draft of the Penal Code of Indonesia Year 2019 especially in book I, stating that it retains the minimum and maximum criminal system as well as the formulation of the current Penal Code (WvS). The formulation of imprisonment in a given time is as follows: The general minimum pattern is 1 day, the specific minimum varies between 1-5 years, the general maximum pattern of 15-20 years, and the specific maximum pattern varies according to the criminal offence.

Weekend detention formulation pattern can be dropped to the defendant when committing a criminal offence that is threatened with imprisonment of maximum 5 (five) years. Furthermore, the time limit imposed in the Saturday Sunday sentenced to imprisonment is at least 1 (one) year to undergo a Saturday Sunday prison. So even though his actions were threatened with a criminal of 5 years but the judge dropped the verdict above 1 year then it cannot be penalized weekend detention.

The entry of criminal policy weekend detention in the Draft of the Penal Code of Indonesia formula seeks to address the problem of the looting system facing the Indonesian nation. However, if it is necessary to understand that the Draft of the Penal Code of Indonesia is the parent of material criminal law, while the weekend policy detention is part of the execution law that is currently in Indonesia does not have a codification or execution rules that are posted systematically.

It should be necessary for the Government to develop the Draft of Code on the Implementation of the Punishment so that all the rules of execution of the sentence scattered everywhere can be integrated systematically and clearly. In the preparation of the Draft of Code on the Implementation of the Sentence if the rules of execution of penalties that are still part of the codification of material criminal law needs to be transferred including later added an alternative policy prison is weekend detention.

Researchers argue that this weekend detention criminal policy needs to be entered into one of the basic punishment in the the Draft of the Penal Code of Indonesia that is being conducted by the legislative institution or if the government is about to arrange codification in the law of implementation of punishment or the law of penitentiary, weekend detention is incorporated in one type of punishment that can be applied in Indonesia, including other types of punishment that are still incorporated in codification of material criminal law.

CONCLUSION

The formulation of weekend detention in Indonesian legislation or Indonesian positive law has not been set regarding the weekend detention system so that in the correctional facility is also not enforced weekend detention. Nevertheless, the concept of

weekend detention has the similarity of objectives with a program of assimilation coaching prisoners that are present in Indonesia. Both have the same goal of how to prepare the perpetrators back to life in the community and give them the opportunity to continue their work, improve their knowledge and skills, and play an active role in society. The policy formulation of the weekend detention in the future that is expected to apply in Indonesia is to place it firmly in the legislation, especially in the draft of penal code by inserting it in Article 65 the Draft of the Penal Code of Indonesia or if the government is about to arrange codification in the law of implementation of punishment or the Law of Penitentiary, weekend detention is incorporated in one of the types of punishment that can be applied in Indonesia, including other types of punishment that are still incorporated in codification of material criminal law.

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Criminal Justice Quote

“Criminal justice” is what happens after a complicated series of events has gone bad. It is the end result of failure--the failure of a group of people that sometimes includes, but is never limited to, the accused person.”

Paul Delano Butler, *Let's Get Free: A Hip-Hop Theory of Justice*