RECHTSVINDING
Vol. 3, 2 (December, 2025), pp. 163-172
EISSN: 2987-4424, DOI: 10.59525/rechtsvinding.v3i2.1039

New Direction of National Law Reform Through Revision of The Criminal Code

Dara Pustika Sukma[1], Itok Dwi Kurniawan[2]

[1] Universitas Sebelas Maret, Indonesia; darapustikasukma@staff.uns.ac.id
[2] Universitas Sebelas Maret, Indonesia; itokdwikurniawan@staff.uns.ac.id

ARTICLE INFO

Keywords:

Revision;
Criminal Code;
Reform;
Law;
National

Article history:

Received 2025-08-29
Revised 2025-09-27
Accepted 2025-10-23

ABSTRACT

The revision of the Criminal Code (KUHP) is a strategic step in realizing the reform of national law based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia. The old Criminal Code as a product of Dutch colonialism (Wetboek van Strafrecht) is considered irrelevant to social, cultural, economic, political, and technological developments in Indonesia, which is undergoing reform. Through the establishment of the new Criminal Code, the government seeks to present a criminal law system that is more humane, fair, and reflects the nation's identity. This reform is also a form of legal decolonization and national independence in building a national legal system with Indonesian personality. This study aims to analyze the urgency of revising the Criminal Code in the context of national law reform and assess its implications for the criminal law system in Indonesia. Using a normative juridical approach, this study emphasizes that the revision of the Criminal Code is not just a textual change, but a substantial transformation towards a criminal law that is in accordance with the values of social justice and universal humanity.

Corresponding Author:
Dara Pustika Sukma
Universitas Sebelas Maret, Indonesia; darapustikasukma@staff.uns.ac.id

1. INTRODUCTION

Public law, criminal law finds its importance in legal discourse in Indonesia. How could it not, the criminal law contains rules that determine the acts that should not be done accompanied by threats in the form of criminal and determine the criminal conditions that can be imposed.

The public nature of criminal law has the consequence that criminal law is national. Thus, Indonesian criminal law is applied to all regions of the State of Indonesia. In addition, considering that criminal law material is loaded with human values, but on the other hand, criminal law enforcement actually provides strict sanctions for humans who violate it. Therefore, the discussion of criminal law material is carried out with extra care, namely by paying attention to the context of the society where the criminal law is enforced and still upholding civilized human values.

The issue of the conformity between criminal law and the society where the criminal law is enforced is one of the prerequisites for whether or not criminal law is good. This means that criminal law is considered good if it meets and is in accordance with the values owned by the community. On the other hand, criminal law is considered bad if it is obsolete and not in accordance with the values in society. This means that *criminal law reform* has now become a "dead price" for fundamental changes in order to achieve the goal of a better and more humane criminal justice system, actions, policies, and punishment in Indonesia. This need is also in line with a strong desire to be able to realize a fairer *law enforcement* against every form of criminal law violation in this reform era. An era that urgently needs openness, democracy, clean and good governance, protection of human rights, law enforcement and justice or truth in all aspects of the life of society, nation, and state.

The desire to carry out criminal law reform has existed since 1946 with the issuance of Law Number 1 of 1946 concerning criminal law regulations (news of the Republic of Indonesia number 9).according to Sudarto, the reform of the criminal law as part of criminal politics is in place and has been implemented as soon as possible. This is mainly related to the existence of the provisions of the old criminal law which are regulated in the criminal code as an *"umberella act"* or a general paying law. This law will also affect the formulation of the formation of special criminal laws, in accordance with the legal needs of the community in the era of independence and openness in the 21st century.

Starting from that, the design of a new national criminal code to replace the criminal code left by the Dutch colonial government with all changes, in the explanation is said to be one of the efforts in the context of national law reform. These efforts are carried out in a directed and integrated manner in order to support national development in various fields, in accordance with the demands of development as well as the level of legal awareness and dynamics that develop in society.

The attempt to realize the unity of criminal law throughout Indonesia, de *facto* could not be realized because there were areas occupied by the Dutch as a result of Dutch military action I and II where for these areas *wetboek van strafrecht voor nederlandsch- indie still applies (staat blad 1915: 732)* with all the changes. Thus, it can be said that after independence in 1945 there was a dualism of criminal law that prevailed in Indonesia and this situation lasted until 1958. With the promulgation of Law No. 73 of 1958. The law stipulates that Law No. 1 of 1946 concerning criminal law regulations with all its amendments and additions applies to the whole of Indonesia.

This journal can take a problem, namely: 1) Why is there a need for criminal law reform in Indonesia? 2) How is the formation of reforms in the National Criminal Code Bill?

2. METHODS

This research is normative, with the nature of qualitative descriptive research. The research uses primary and secondary legal materials, primary legal materials are obtained from information from the provisions of laws and regulations. The type of data the documentation uses. It is subsequently strengthened with secondary legal materials from books, journals, articles, and others. Data analysis using interpellation techniques by gaining an understanding of the case, then building a clear relationship with the research objective.

3. FINDINGS AND DISCUSSION

a. The Concept of *Criminal Law Reform*

Criminal Law in Indonesia as a public law, criminal law finds its importance in legal discourse in Indonesia. The criminal law contains rules that determine the acts that should not be carried out accompanied by threats in the form of criminal and determine the criminal conditions that can be imposed. The public nature of criminal law has the consequence that criminal law is national. Thus, Indonesian criminal law is applied to all regions of the Indonesian state.

In addition, considering that criminal law material is loaded with human values, criminal law is often described as a double-edged sword. On the one hand, criminal law aims to uphold human values, but on the other hand, criminal law enforcement actually provides sanctions for human beings who

violate it. Therefore, the discussion of criminal law material is carried out with extra care, namely by paying attention to the context of the society in which the criminal law is enforced and still upholding civilized human values. The issue of conformity between criminal law and the society in which the criminal law is enforced is one of the prerequisites for whether criminal law is good or not. This means that criminal law is considered good if it meets and is in accordance with the values owned by the community. On the other hand, criminal law is considered bad if it is outdated and not in accordance with the values in society.

Indonesian criminal law is a legacy of colonial law when the Dutch colonized Indonesia. If Indonesia declares itself as an independent nation since August 17, 1945, then it is appropriate that Indonesia's criminal law is a product of the Indonesian nation itself.

However, this idealism turned out to be incompatible with his reality. Indonesian criminal law still uses Dutch heritage criminal law. Politically and sociologically, the implementation of this colonial criminal law clearly poses its own problems for the Indonesian nation. Criminal law reform essentially contains meaning, an effort to review and reassess in accordance with the central socio-political, socio-philosophical and socio-cultural values of Indonesian society that underlie social policies, criminal policies and law enforcement policies in Indonesia.

Efforts to reform Indonesia's criminal law have a meaning, namely creating a national criminal law codification to replace the codification of criminal law which is a colonial legacy, namely Wetboek van Strafrecht Voor Nederlands Indie 1915, which is a derivative of the Dutch Wetboek van Strafrecht in 1886.

From the above, there is a determination from the Indonesian people to realize a criminal law reform which can be interpreted as an effort to reorient and reform the criminal law in accordance with the central socio-political, socio-philosophical and socio-cultural values that underlie and give side to the normative content and substance of the criminal law that is aspired to.

The need for comprehensive criminal law reform has been thought about by criminal law experts since the 1960s, which includes material criminal law, formal criminal law, and criminal implementation law. Efforts to reform the criminal law have begun since the beginning of the establishment of the Republic of Indonesia, namely since the proclamation of Indonesian independence on August 17, 1945 in Jakarta. In order to avoid a legal vacuum, the 1945 Constitution contains transitional rules. In article II, the transitional rules say that "all state bodies and regulations are still in effect, as long as a new one has not been established according to this constitution". This provision means that the criminal law and criminal laws in force at that time, i.e. during the occupation of the Japanese or Dutch army, before there were new legal provisions and laws.

The meaning of criminal law reform for the benefit of the Indonesian people refers to two functions in criminal law, the first is the primary or main function of criminal law, namely to tackle crime. Meanwhile, the secondary function is to keep the ruler (government) in tackling crime to really carry out their duties in accordance with what has been outlined by the criminal law. In its function to tackle crime, criminal law is part of criminal politics, in addition to non-penal efforts to counter it. Given this function, the formation of criminal law will not be separated from the review of the effectiveness of law enforcement. The need for criminal law reform is also related to the issue of the substance of the Criminal Code which is dogmatic. The Criminal Code of Colonial Heritage is motivated by the idea of individualism-liberalism and is strongly influenced by classical and neoclassical schools of criminal law and criminality from the interests of the Dutch colonial in its colonial countries.

This criminal law does not come from the view/concept of basic values *(grounnorm)* and socio-political, socio-economic, and socio-cultural realities that live in the minds of the Indonesian people/nation itself. So that the applicable Criminal Code will no longer fit the thinking of Indonesian people today. Efforts to reform the criminal law in the formation of a national Criminal Code are a basic need for the community to create fair law enforcement. Criminal law is an effort to overcome crime through criminal law, so that fear of crime can be avoided through criminal law enforcement with criminal sanctions. Criminal law with the threat of criminal sanctions cannot be a legal guarantee or the main threat to the freedom of humanity in the life of society and the state. The criminal sanctions

referred to here to restore the original situation as a result of violations of the law committed by a person or by a group of people require certainty and law enforcement. Such criminal sanctions will be obtained with the formation of a National Criminal Code that reflects the values of Indonesian society, no longer a Criminal Code imposed by the colonial nation for a colonized nation only for the interests of the colonizers not for the national interest of Indonesian law enforcement.

b. The Urgency of Renewal

Criminal Law The meaning and essence of criminal law reform is closely related to the background and urgency of holding criminal law reform itself. The background and urgency of criminal law reform can be reviewed from socio-political, socio-philosophical, socio-cultural aspects or from various policy aspects (especially social policy, criminal policy and law enforcement policy). This means that criminal law reform must essentially be a manifestation of changes and reforms to various aspects and policies that underlie it. Thus, criminal law reform essentially contains meaning, an effort to reorient and reform the criminal law in accordance with the socio-political, socio-philosophical, and socio-cultural values of Indonesian society that underlie social policies, criminal policies and law enforcement policies in Indonesia. The meaning and essence of criminal law reform can be pursued in two ways as follows: First, seen from the perspective of a policy approach: a) As part of social policy, criminal law reform is essentially part of efforts to overcome social problems in order to achieve/support national goals (community welfare), b) As part of criminal policy, criminal law reform is essentially part of protection efforts community (especially crime prevention efforts). c) As part of the law enforcement policy, criminal law reform is essentially part of efforts to reform the substance of the law in order to make law enforcement more effective. Second, from the point of view of the value approach, criminal law reform is essentially part of an effort to review and reassess the socio-political, socio-philosophical and socio-cultural values that underlie and provide content to the normative and substantive content of the aspired criminal law.

Reform of the criminal law has become an urgent need for fundamental changes in order to achieve the goal of a better and more humane criminal justice system. This need is in line with a strong desire to be able to realize a fairer *law enforcement* against every form of criminal law violation in this reform era. An era that urgently needs openness, democracy, human rights protection, law enforcement and justice/truth in all aspects of the life of society, nation, and state.

In this reform era, there are 3 factors in the criminal law order that are very urgent and must be updated immediately. First, positive criminal law to regulate aspects of people's lives is no longer in accordance with the times. Some positive criminal law systems are products of colonial legacies such as the Criminal Code, where the provisions in the Criminal Code lack social relevance to the conditions it regulates. Second, some of the positive criminal law provisions are no longer in line with the spirit of reform that upholds the values of freedom, justice, independence, human rights, and democracy. Third, the application of positive criminal law provisions causes injustice to the people, especially political activists, human rights, and democratic life in this country.

c. Crime and Criminalization

The term punishment derived from the word *"straf"* and the term punished derived from the word *"worden gestraf*", according to Prof. Mulyatno, are conventional terms, namely criminal to replace the word *"straf"* and threatened with criminal punishment to replace the word *"worden gestraf"*. If "straf" is interpreted as punishment, then "strafrecht" should be interpreted as punishments. Punishment is the result or consequence of the application of the law which has a broader meaning than criminal, because it also includes the decision of judges in the field of civil law.

According to Prof. Sudarto, it is stated that punishment comes from the basic word of law so that it can be interpreted as determining a punishment or deciding about the law (berechten). The term punishment can also be narrowed down in meaning, namely punishment in criminal cases, but the word punishment in criminal cases has the same meaning or is synonymous with the word punishment or criminal sentencing by the judge. If people don't like the consequences of using the word "straf"

instead of the word "straf" and stick to the word punishment, then consequently they have to replace the word "strafrecht" with the penal code which is a bit confusing.

According to the author, the term criminal as a substitute for the word "straf" in criminal law in Indonesia is still better than using the term "punishment". In the literature of criminal law, according to the realm of pure normative thinking, the discussion of crime will always come up against a paradoxical point of contradiction, namely that on the one hand the crime is to protect the interests of a person, but on the other hand it turns out to rape the interests of another person.

In order to provide a broader picture of the definition of criminal, because criminal is a special term, it is necessary to limit the definition or meaning that can show its distinctive characteristics or characteristics.

Here are some definitions of crime according to several opinions or definitions from criminal experts as follows:

First, Prof. Sudarto, what is meant by crime is suffering that is deliberately imposed on people who commit acts that meet certain conditions.

Second, Prof. Roeslan is pious, crime is a reaction to a crime and this is in the form of a crime that the state deliberately inflicts on the perpetrator.

Third, according to Ted Honderich, *Punishment is an authoritys infliction of penalty (something involving deprivation or distress) on an offender for an offence.* (Meaning: Criminal is an affliction from the authorities as punishment [something that includes revocation and suffering] imposed on a perpetrator for an offense).

Fourth, according to Hulsman, the nature of crime is "calling for order" *(tot de orde reopen)* that criminal in essence has two main objectives, namely: to influence behavior *(gedragsbeinvloeding)* and conflict resolution *(conflictsolucion).* Conflict resolution can consist of repairing the damage experienced or repairing damaged good relationships or the restoration of trust between fellow human beings.

Fifth, according to G.P. Hoefnagels, disagrees with the opinion that crime is a reproach *(censure)* or a *discouragement* or is a *suffering.* His opinion departs from the criminal, that sanctions in criminal law are all reactions to violations of the law that have been determined by law, from the detention and investigation of the defendant by the Police until the verdict is handed down. So Hoefnagels sees it empirically that crime is a process of time. The entire criminal process itself (from detention, examination to verdict) is a criminal offense.

Based on various views of experts on the meaning of crime, it is undeniable that grief or suffering is an element that does exist in a crime. From some of the views above, in the criminal sense there is an element of suffering that cannot be denied. However, the suffering and sorrow contained in the criminal element must be seen as a remedy to be freed from sin and guilt.

So suffering as a result of criminal punishment is a liberating way out and one that gives the possibility of repentance with full faith. H.L. Packer as quoted by Muladi and Barda Nawawi Arief in their book *"The limits of criminal sanction"*, finally concluded as follows: a) Criminal sanctions are very necessary; We cannot live, now or in the future, without criminality. *(The criminal sanction is indispensable; we could not, now or in the foreseeable future, get along without it)*, b) Criminal sanctions are the best tool or means available, which we have to deal with crimes or great and immediate dangers and to deal with the threats of danger. *(The criminal sanction is the best available device we have for dealing with gross and immediate harms and threats of harm)*, c) Criminal sanctions were once the 'best guarantor' and once the 'main threat' to human freedom. it is a guarantor when used sparingly and humanely; It is a threat, when used carelessly and forcefully. *(The criminal sanction is at once prime guarantor and prime threatener of human freedom. Used providently and humanely, it is guarantor; used indiscriminately and coercively, it is threatener).* d) Definition of Criminality Sudarto states that the word criminalization is synonymous with the term punishment. Punishment itself comes from the word "law", so it can be interpreted as establishing a law or deciding about the punishment *(berechten).* Establishing this law is very broad, meaning not only in the field of criminal law but also in other fields of law. Therefore, the term must be narrowed in meaning, namely punishment in criminal cases which is often synonymous with criminalization or the granting or imposition of a criminal sentence by a judge.

Based on the above opinion, it can be interpreted that criminalization can be interpreted as the determination of a criminal and the stage of imposing a penalty. According to Jan Remmelink, punishment is the imposition of a conscious and mature punishment by the authority of the authorities on the perpetrators who are guilty of violating a rule of law.

Meanwhile, Jerome Hall as quoted by M. Sholehuddin gave details about criminalization, that criminalization is as follows: 1) Criminalization is the loss of things that are necessary in life. 2) It is coerced by force 3) It is given in the name of an "authorized" state 4) Criminality requires the existence of rules, their violations, and their determinations expressed in the verdict 5) It is given to the offender who has committed a crime and this requires the existence of a set of values to which, by reference to him, crime and criminality are ethically significant. 6) The level or type of punishment is related to the crime and is aggravated or mitigated by looking at the personality of the offender, his motives and motivations.

Discussion

a. The Importance of Criminal Law Reform in Indonesia

The need for comprehensive criminal law reform has been thought about by criminal law experts since the 1960s, which includes material criminal law (substantive), formal criminal law (procedural, criminal procedural law), and criminal execution law. The three areas of criminal law must be both updated as a consequence of adherence to the principle of legality in Indonesian criminal law. If only one area of criminal law is updated and the other is not, then difficulties will arise in the implementation of the law and the purpose of updating is not achieved. This is considering that the main purpose of criminal law reform is to combat crime.

Efforts to reform the criminal law have begun since the beginning of the establishment of the Republic of Indonesia, which was when it was proclaimed on August 17, 1945 in Jakarta. In order to avoid a legal vacuum, the 1945 Constitution contains transitional rules. In Article II of the transitional rules it is stated that "all existing State bodies and regulations are still valid, as long as a new one has not been held according to this Constitution". This provision means that the criminal law and criminal law that were in force at that time, namely during the occupation of the Japanese or Dutch army, before there were new legal provisions and laws.

Thus, criminal law reform essentially contains meaning, an effort to reorient and reform the criminal law in accordance with the central sociopolitical, sociophilosophical, and sociocultural values of Indonesian society that underlie the social policy, criminal policy, and law enforcement policy in Indonesia. In short, it can be said that criminal law reform must essentially be pursued with a *policy-oriented approach* and at the same time a *value-oriented approach*.

Criminal law reform must be carried out with a policy approach, because in essence it is only part of a policy step (i.e. part of legal politics/law enforcement, criminal law politics, criminal politics, and social politics).

First, seen from the perspective of the policy approach: a) As part of social policy, criminal law reform is essentially part of efforts to overcome social problems (including humanity) in order to achieve/support national prosperity (people's welfare and so on), b) As part of the critical policy, criminal law reform is essentially part of efforts to protect the community (especially efforts to curb crime), and c) As part of law enforcement policy, criminal law reform is essentially part of efforts to update legal *substance* in order to make law enforcement more effective.

Second, from the point of view of the value approach, criminal law reform is essentially an effort to review and reassess (reorient and reassess sociopolitical, sociophilosophical, and sociocultural values that underlie and provide content to the normative content and substance of the aspired criminal law. from the old criminal law inherited by the colonizers (the old Criminal Code WpS).

In this reform era, there are three factors of positive criminal law order that are very urgent and must be updated immediately. *First,* positive criminal law to regulate aspects of people's lives is no longer in accordance with the development of the times. As a legal order, pidan apositif is a legal product of the Dutch colonial legacy. For example, in material criminal law such as the Criminal Code.

The provisions of this law are not socially relevant to the social situation and conditions that it regulates. This is because social changes in Indonesia today are radical changes covering people's lives. *Second*, some of the positive criminal law provisions are no longer in line with the spirit of reform that upholds the values of freedom, justice, independence, human rights, and democracy. *third*, the application of positive criminal law provisions causes injustice to the people, especially political activists, human rights, and democratic life in this country.

Criminal law reform must be able to refer to criminal law policies so that they synergize with the interests of law enforcement. The policy covers anything that can be criminalized in a broad criminal law. The criminal law will be implemented by the government together with the law enforcement officials themselves.

b. Establishment of Reforms in the National Criminal Code Bill

Efforts to reform the criminal law in the formation of a National Criminal Code Bill are the basic needs of the people in order to create fair law enforcement. Security under the law is coveted by citizens who experience a "fear of crime" so that there are efforts to combat crime through criminal legislation as part of policy steps, due to the increase in the quality, quantity, and identity of violations of the law. All of this can be done through criminal law enforcement.

This effort can be achieved by the formation of a National Criminal Code. This means that the existence of efforts to combat crime through the making of a criminal law is essentially an integral part of social *welfare.* This policy or criminal law is also an integral part of social policy or politics (*social polici*), namely all rational efforts to be able to achieve the welfare of the people and at the same time include the protection of the people against various violations of the law.

Law enforcement is closely related to *penal policy* as a criminal politics carried out by the government together with law enforcement officials in order to realize justice. Marc Ancel defines *criminale politie* as "*rationale organisatie van maatschappelijke reakties of crime"*. (that is, the rational effort of the community's reaction in efforts to curb crime). The prosecution of this crime is based on the provisions/rules in *het stelsel van hect wetboeek van 1886.* It was taken because of the existence of "*de objectiefe Ernst van hect delict"* or the subjective state of the law (wet delik). This rational effort or real action is in the form of the field of justice. The scope of criminal law policy includes the scope of policies in the field of material criminal law, formal criminal law, and criminal implementation law.

The formation of the criminal law, which should cover the three areas of law, achieves justice, all of this is also related to problems in the Indonesian criminal law system as a whole. These problems, according to Sudarto, are in the form of: a) criminalization and decriminalization, b) criminal imposition, c) Implementation of criminal law, and d) how far the urgency of the National Criminal Code goes.

All of the above problems will be answered with criminal law. According to Barda Nawawi Arief, that:

> Criminal law policy will go through three stages, namely (1) the stage of law enforcement *in abstracto* by the law-making body called legislative as the legal formulation stage; (2) the stage of law enforcement *in concrito* in the application of criminal law by law enforcement officials from the police to the courts which is referred to as the judicial policy stage as the stage of legal application; and (3) the stage of in *concrito law enforcement* in the implementation of prison sentences by criminal executing officers / prison inspectors which is called the executive policy as the administrative stage of law execution.
>
> The three stages can be applied sequentially, starting with the formation of the Criminal Code.

The formation of the new Criminal Code Bill is still in the first stage, namely the formulation of criminal law. At this stage, all aspects of the law and types of criminal sanctions can be given by citizens as input to the government (cq the Department of Law and Human Rights) and the House of Representatives for the realization of the perfection of the new Criminal Code Bill that can meet the sense of justice of the people and the Indonesian nation. Input from the public is still wide open before the establishment and enactment of a National Criminal Code.

The formation of the new Criminal Code is expected to accommodate various problems in the criminal law that have not been accommodated in the old Criminal Code and there have always been injustices in society and judicial practices. In addition, the substance of the new Criminal Code must also be able to anticipate various new delicacies in the process of changing society in the reform era, such as the issue of hostage-taking, maker, terrorism, delicacies against satellite communications, *contempt of court*, delicacies related to computers, information technology, and space, delicacies of environmental pollution, economic and business crimes that are growing rapid with the advancement of science and technology.

The new crime that develops has implications for every aspect of the life of the nation and the State. The establishment of the National Criminal Code is a mandate of the People's Consultative Assembly of the Republic of Indonesia (MPR RI) with the principle of archipelago insight, namely that there is only one national law that applies throughout Indonesia as a unitary state. The logical consequence of this principle is that there is only one national criminal law that applies in this country. The politics of criminal law that is to be pursued is the politics of unification of criminal law. It is natural that there is only one law in a unitary country like Indonesia in the form of only one law that applies to all groups of the population as legal demands and needs in a modern legal state that is increasingly complex with various legal problems.

Another aspect of this legal politics is that national criminal law must be codified in order to have legal certainty. All provisions of criminal law are written crimes that are compiled in one system that must be open to be able to respond to various changes due to the development of science and technology that takes place very quickly in people's lives. The codification taken by the government is sectoral codification in the sense that all principles, principles, and provisions that apply generally to all criminal fields are compiled as one of the sste units in one lawbook, namely the National Criminal Code.

The Criminal Code Bill is indeed very urgent to be promulgated immediately, in order to complement the existence of the Criminal Code and law enforcement laws that already exist in the country. For the nation and state of Indonesia that has been independent for more than 60 years, the success in forming a National Criminal Code is a pride in itself that will complete the masterpiece of criminal law in this country after the promulgation of the Criminal Code in 1981. The question now is, when can this Criminal Code Bill be promulgated by the government in the State Gazette to become the National Criminal Code that has been coveted by the people for a long time?

The implementation of the New Criminal Code in the ranks of law enforcement is a benchmark to the extent that criminal law sanctions have a special meaning with Indonesian characteristics in changing the nation's behavior in accordance with the law. The New Criminal Code is the work of the nation in the field of criminal law which was formed in order to welcome the new era of the millennium in the 21st century.

4. CONCLUSION

The existence of the New Criminal Code, which is sourced, characterized, rooted, and has national character in accordance with the content of Pancasila and the 1945 Constitution, is now very urgent to be realized to replace the old Criminal Code that is a Dutch colonial legacy and is no longer suitable for social, cultural, economic, political, and technological developments in the atmosphere of an independent Indonesia and has just undergone reform in the 21st century. The formation of the new Criminal Code reflects the government's serious efforts in enforcing criminal law that is more humane and fair for all levels of society in this reform era. It is strange that the Dutch Country, WvS has been reformed and not enforced for a long time, will still be valid as a colonial legacy, because of the inability of this nation to create a new national criminal law.

The presence of the new Criminal Code as the National Criminal Code is expected to be able to realize much better criminal law enforcement by the government and law enforcement officials in a clean and good government. The enforcement of criminal law must be in accordance with the spirit of

the spirit and legal ideals of the Indonesian people, namely the existence of legal certainty and justice as well as legal benefits for all people, if all this is realized, then the enforcement of criminal law can meet the expectations as desired by all Indonesian people.

The urgency of the implementation of the national criminal law will be more able to accommodate the interests of all levels of Indonesian society which consists of various tribes and cultures which are the basis for the formation of the New Criminal Code Bill, this needs to be highlighted by the government and law enforcement so that there is no confusion in the implementation of the new National Criminal Law.

Then also in this New Criminal Code Bill, it is hoped that it must also depart from the values of Pancasila and the 1945 Constitution which must be outlined in the National Criminal Code Bill, so that God willing, in the future all Indonesian people in their lives will be able to practice the meaning of Pancasila and the 1945 Constitution itself

Furthermore, in terms of law enforcement, which is also expected in the New Criminal Code Bill, it would be better to be oriented towards the prevention aspect, now this prevention aspect becomes a shield so that criminal acts that lead to criminal sanctions can be minimized by law enforcers

REFERENCES

Arief, B. N. (2010). Bunga Rampai Kebijakan Hukum Pidana: Perkembangan Penyusunan Konsep KUHP Baru. Jakarta: Kencana.

Asshiddiqie, J. (2020). Gagasan Negara Hukum Indonesia: Penguatan Prinsip Konstitusionalisme dan Demokrasi. Jakarta: Rajawali Pers.

Barda Nawawi Arief, 2010, Bunga Rampai Kebijakan Hukum Pidana, cetakakan kedua, PT. Kencana Prenada Media Group, Jakarta.

Barda Nawawi Arif, 2014, *Bunga Rampai Kebijakan Hukum Pidana,* Bandung, Citra Aditia bakti.

Barda Nawawi, 2008, *Kebijakan Hukum Pidana Perkembangan Penyusunan Konsep KUHP Baru,* Kencana Prenada Media Group, Jakarta.

Bedner, A., & Van Huis, S. (2010). Plurality of Law and Legal Recognition in Indonesia. Journal of Legal Pluralism and Unofficial Law, 42(61), 57–74. https://doi.org/10.1080/07329113.2010.10756638

Butt, S. (2018). The Constitutional Court and Democracy in Indonesia. Brill Nijhoff.

Duff, R. A. (2010). Punishment, Communication, and Community. Oxford University Press.

Dwidja Priyatno, 2009, *Sistem Pelaksanaan Pidana Penjara Di Indonesia, cetakan kedua*, PT Refika Aditama, Bandung.

Friedman, L. M. (1975). The Legal System: A Social Science Perspective. New York: Russell Sage Foundation.

Garland, D. (2001). The Culture of Control: Crime and Social Order in Contemporary Society. Oxford: Oxford University Press.

Hulsman, L. (1986). Critical Criminology and the Concept of Crime. Contemporary Crises, 10(1), 63–80. https://doi.org/10.1007/BF00728316

Jan Remmelink, 2003, Hukum Pidana, Gramedia Pustaka Utama, Jakarta.

Lindsey, T. (2020). Indonesia's Long Road to Criminal Law Reform. The Conversation. Retrieved from https://theconversation.com/

Magnis-Suseno, F. (2016). Etika Politik: Prinsip-Prinsip Moral Dasar Kenegaraan Modern. Jakarta: Gramedia Pustaka Utama.

Mahfud, M. D. (2012). Politik Hukum di Indonesia. Jakarta: Rajawali Pers.

Marlina, 2011, Hukum Penitensier, Refika Aditama, Bandung.

Marwan Efendi, 2014, *Teori hukum dari perspektif Kebijakan,Perbandingan Dan Harmonisasi Hukum Pidana,* Referensi Gaung Persada Pres Group, Jakarta.

Marzuki, P. M. (2014). Penelitian Hukum. Jakarta: Kencana Prenada Media Group.

Moeljatno, *Asas-asas Hukum Pidana,*Rineka Cipta, Jakarta, 2008.

Muladi dan Barda Nawawi Arief, 2005, *Teori-Teori Dan Kebijakan Pidana, cetakan ketiga*, P.T. Alumni, bandung..

Muladi, 2005, *Lembaga Pidana Bersyarat, cetakan ketiga,* Alumni, Bandung.

Muladi. (1995). Proyeksi Hukum Pidana Materiil di Indonesia di Masa Mendatang. Bandung: Alumni.

Nasution, B. J. (2018). Hukum dan Demokrasi di Indonesia. Jakarta: Rajawali Pers.

Packer, H. L. (1968). The Limits of the Criminal Sanction. Stanford University Press.

Prima Angkupi, 2022, Pembaharuan Hukum Pidana, http://id.shvoong.com/law-and-politics/criminallaw/2077234-pembaharuan-hukum-pidana-dalam-perspektif/#ixzz1sXHWBKsL, di akses pada tanggal 12 Juli 2022.

Rahardjo, S. (2006). Hukum dan Masyarakat: Suatu Pengantar ke Arah Kajian Sosiologi Hukum. Bandung: Angkasa.

Salim, H. S., & Nurbani, E. S. (2013). Penerapan Teori Hukum pada Penelitian Disertasi dan Tesis. Jakarta: Rajawali Pers.

Setiadi, W. (2021). Harmonisasi Hukum Pidana Nasional dalam Perspektif Pancasila dan HAM. Jurnal RechtsVinding, 10(1), 1–20. https://rechtsvinding.bphn.go.id/

Simanjuntak, R. (2022). Reformation of Criminal Law in Indonesia: Between Pancasila Values and Global Legal Norms. Journal of Indonesian Legal Studies, 7(2), 211–230. https://doi.org/10.15294/jils.v7i2.52872

Soekanto, S., & Mamudji, S. (2003). Penelitian Hukum Normatif: Suatu Tinjauan Singkat. Jakarta: RajaGrafindo Persada.

Teguh Sulistia dan Aria Zurnetti, *Hukum Pidana Horizon Baru Pasca Reformasi,* Raja Grafindo, Jakarta, 2011.