

**HARMONIZATION OF PANCASILA VALUES IN THE PURPOSE OF PUNISHMENT UNDER THE NATIONAL CRIMINAL CODE**

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**ABSTRACT;** *The enactment of Law No. 1 of 2023 on the National Criminal Code marks a strategic effort to decolonize and align Indonesia's criminal law system with the values of Pancasila. This study examines the role of Pancasila as the philosophical foundation in formulating the purposes of punishment under the new KUHP. Employing normative legal research with statutory and conceptual approaches, the findings reveal that the open ideological nature of Pancasila enables the explicit codification of punishment objectives that integrate retributive, corrective, rehabilitative, and restorative orientations. Article 51 of the KUHP sets forth four purposes: prevention, reintegration of convicts, conflict resolution, and fostering remorse. These purposes substantively correspond to the five principles of Pancasila. Prevention reflects the Second Principle (Just and Civilized Humanity); reintegration resonates with the Fifth Principle (Social Justice); conflict resolution aligns with the Third (Unity of Indonesia) and Fourth (Democracy Led by Wisdom in Deliberation) Principles; and fostering remorse embodies the First Principle (Belief in the One Supreme God). Thus, criminal law reform has successfully transformed Pancasila from a mere ideal into operational normative standards in criminal justice.*

**Keywords:** Criminal Law; National Criminal Code; Pancasila; Purpose of Punishment

**INTRODUCTION**

Indonesia, as a state based on law (*rechtstaat*), is distinctively characterized as a Pancasila Legal State. Its philosophical foundation fundamentally differentiates it from the Continental European *Rechtsstaat* and the Anglo-American rule of law. Pancasila serves not only as the national philosophy but also as the state ideology and the fundamental norm (*staatsfundamentalnorm*) that animates the entire order of national and state life, including the legal system. In its position as the source of all sources of law, Pancasila constitutes a normative-constitutive framework of beliefs that determines the direction, content, and objectives of every national legislation.

The domain of criminal law, as an integral part of the national legal system, cannot be separated from this ideological imperative. The reform of criminal law has been underway since 1964, driven by the awareness that the colonial inheritance of the *Wetboek van Strafrecht*, although given an Indonesian face through Law No. 1 of 1946, substantially remained anchored in colonial criminal law paradigms and scholarship. This reform process, spanning more than five decades, culminated in the enactment of Law No. 1 of 2023 on the National Criminal Code.

One of the most fundamental transformations in this new codification is the explicit formulation of the purposes of punishment in Article 51. This legislative step signifies a paradigmatic shift from a merely retributive-punitive punishment system toward a more comprehensive framework that encompasses preventive, rehabilitative, restorative, and

spiritual dimensions. The inclusion of these purposes cannot be detached from Pancasila values as the state ideology, which demands a balance between religious morality, humanity, unity, democracy, and social justice.

Previous studies have examined the relationship between Pancasila ideology and national criminal law reform. Mahmud emphasized the need to transform Pancasila values into criminal law norms, while Putra specifically explored Pancasila ideology as the basis for the purposes of punishment. Muksin conducted an in-depth analysis of the purposes of punishment in the Draft criminal code (now the New criminal code), highlighting the integration of restorative justice paradigms. Arafat outlined a new punishment paradigm offering alternative sanctions and transforming the criminal justice system. However, a comprehensive study that meticulously links Article 51 of the New criminal code to each of the five principles of Pancasila remains limited. Therefore, this research aims to analyze Pancasila as the philosophical foundation for the construction of the criminal system and the purposes of punishment in the New KUHP, by tracing the substantive connections between the normative formulation of Article 51 and the values contained within every principle of Pancasila.

## **Problem**

Based on the background above, the research problem is formulated as follows:

1. How does Pancasila serve as the philosophical foundation for the formulation of the purpose of punishment in the New criminal code?
2. How do the purposes of punishment stipulated in Article 51 of the New criminal code reflect the values of each principle of Pancasila?

## **Research Methods**

This study is a normative legal research that aims to discover rules, doctrines, and legal principles to address the issues concerning the role of Pancasila as the foundation for the construction of the criminal system and the formulation of the purposes of punishment in Indonesia. The type of research employed is doctrinal, utilizing two main approaches: the statute approach and the conceptual approach. The statute approach is carried out through a systematic examination of the hierarchy of legislation, particularly the 1945 Constitution of the Republic of Indonesia, Law No. 1 of 2023 on the National Criminal Code, and other relevant laws and regulations. The conceptual approach examines legal doctrines concerning Pancasila ideology, the philosophy of punishment, and the concepts of the purposes of punishment developed in the process of national criminal law reform.

Primary legal materials consist of the 1945 Constitution and the New criminal code. Secondary legal materials include reputable academic textbooks, national law journals, and scholarly works that specifically discuss the transformation of Pancasila values in the context of criminal law reform. All collected legal materials are analyzed qualitatively and normatively using systematic and teleological interpretation methods, thereby yielding coherent and prescriptive answers to the issues under study.

## **Discussion**

### **A. Pancasila as the Foundation of Indonesian Criminal Law Development**

Pancasila, as the state ideology, constitutes a constitutional identity that distinguishes Indonesia from other nations that lack a crystallized basic norm as the cornerstone for lawmaking and law enforcement. Notonagoro, in his legal philosophy studies, asserted that juridically, Pancasila has been agreed upon as the state ideology, which carries the imperative implication that all laws applicable within Indonesia must also embody the Pancasila ideology. Consequently, legal development, including criminal law, must be oriented toward the values enshrined in each principle.

Atmoredjo proposes that Pancasila acts as a paradigm for legal development, serving as a reference for every legal thought, attitude, action, and activity in Indonesia. As a legal ideology, Pancasila crystallizes the mindset and attitudes of the nation into a coherent normative order. In this context, Pancasila performs a dual function: as a basic norm (*grundnorm*) and as a legal ideal (*rechtsidee*). As a *grundnorm*, Pancasila is the ideal precondition underlying every positive law; meanwhile, as a *rechtsidee*, Pancasila directs the law toward achieving the state's goals, namely a just and prosperous society that is godly, humane, united, democratic, and socially just.

Mahmud emphasizes that the reform of national criminal law must be grounded in the transformation of Pancasila values into criminal law norms. These values include a balance between religious morality (the Divinity aspect), humanity (humanistic), nationalism, democracy, and social justice. This characteristic of balance has become a distinctive feature of Indonesian criminal law, which is oriented not only toward retaliation against the perpetrator but also takes into account aspects of humanity, victim recovery, and social harmony. Therefore, every design and substance of national criminal law, including the formulation of the purposes of punishment, must be measured against these Pancasila values.

Putra specifically affirms that Pancasila ideology serves as the foundation for formulating the purposes of punishment in national criminal law reform. The concept of punishment rooted in Pancasila rejects views that exclusively emphasize retribution or deterrence, instead embracing a broader paradigm that is corrective, rehabilitative, and restorative. This view aligns with the development of modern criminal law that calls for a shift from retributive justice toward corrective, rehabilitative, and restorative justice, as articulated by Hiariej in his study of criminal law principles.

Yoesuf adds that Pancasila, as the basis for the purposes of punishment in Indonesia's new criminal law system, entails the consequence that the purposes of punishment are no longer dominated by a backward-looking orientation that is punitive but are also forward-looking, aiming to reform the offender, restore the victim, and reconcile the community. Thus, Pancasila is not merely a rhetorical symbol in the Preamble of the Constitution but an operative guide that directs legislative, adjudicative, and executive policies in criminal matters.

The open nature of the Pancasila ideology provides room to accommodate the development of global legal values and paradigms, provided they do not conflict with the fundamental principles contained therein. In the context of punishment, this openness allows the incorporation of the concept of restorative justice, which emphasizes conflict resolution through deliberation, in line with the local wisdom of Indonesian society. Udytama et al.

confirm that the harmonization of local wisdom in resolving criminal cases, as adopted in the New Criminal Code, reflects Pancasila values, particularly the Fourth Principle, which places deliberation as a decision-making mechanism.

#### **B. The Purpose of Punishment in the New Criminal Code and Its Relevance to Each Principle of Pancasila**

Article 51 of Law No. 1 of 2023 explicitly formulates four purposes of punishment: (1) preventing the commission of criminal acts by upholding legal norms for the protection and sheltering of the community; (2) rehabilitating convicts through guidance and mentoring so that they become good and useful persons; (3) resolving conflicts arising from criminal acts, restoring balance, and bringing a sense of security and peace to society; and (4) fostering a sense of remorse and releasing the convict from guilt.

The formulation of these purposes represents the manifestation of the transformation of Pancasila values into criminal law policy. Muksin analyzes that the purposes of punishment in the New KUHP simultaneously integrate several punishment theories, namely the retributive theory that looks backward, and the corrective, rehabilitative, and restorative theories that look forward. This integration is made possible by the open nature of Pancasila, which can accommodate diverse perspectives without losing its identity.

Nur and Mallarangeng highlight that the transformation of punishment policy in the National KUHP lies between the humanization of punishment and the effectiveness of crime control. Both assess that the formulation of the purposes of punishment in Article 51 demonstrates the state's commitment to balancing public protection and respect for human rights. This is in line with the spirit of Pancasila, which places human beings as dignified creatures of God (the First and Second Principles) while also as part of a national community that must be protected (the Third and Fourth Principles) and whose welfare must be guaranteed (the Fifth Principle).

Widiyantoro, in his study on the harmonization of the paradigms of the new Criminal Code and the new Criminal Procedure Code, emphasizes that the purposes of punishment articulated in the New Criminal Code must be operationalized consistently throughout the criminal justice process. The harmonization between the substantive norms in the Criminal Code and the procedural norms in the Criminal Procedure Code is a prerequisite for realizing a progressive and civilized national criminal law system. Within this framework, Pancasila values become the axis that brings these two legal instruments together.

To deeply understand the interconnections between the formulation of the purposes of punishment and the Pancasila ideology, an analysis of each purpose from the perspective of each principle is presented below.

##### **1. The Goal of Prevention as a Reflection of the Second Principle (Just and Civilized Humanity)**

The first purpose of punishment, namely preventing the commission of criminal acts by upholding legal norms for the protection and sheltering of the community, substantially reflects the spirit of the Second Principle of Pancasila: Just and Civilized Humanity. Putra explains that the Second Principle embodies the value that every Indonesian human being is recognized and treated according to their dignity and worth as a creature of God. From this perspective, a criminal act constitutes a violation of humanitarian values because it harms social interests and degrades the victim's dignity.

Mahmud emphasizes that social values within the framework of the Second Principle are placed in an honorable position above individual interests. Therefore, the prevention of criminal acts through the enforcement of legal norms is a concrete manifestation of the protection of fundamental humanitarian values. The State, as the representative of the people, has an obligation to provide a sense of security for every citizen, which is consistent with the principle of sheltering (*pengayoman*) inherent in the concept of the Pancasila Legal State.

Muksin adds that the explicit inclusion of the goal of prevention in the law provides legal certainty and legitimacy for law enforcement officers to take preventive measures. This goal not only aims to punish offenders but also provides a deterrent effect to the broader community to prevent criminal acts. In this context, prevention serves as an instrument of community protection and sheltering, which is a manifestation of civilized humanity.

## 2. The Goal of Rehabilitating Convicts Based on the Fifth Principle (Social Justice for All Indonesian People)

The second purpose, namely rehabilitating convicts through guidance and mentoring so that they become good and useful persons, has a strong connection to the Fifth Principle of Pancasila. Arafat points out that the punishment paradigm in the 2023 KUHP offers more humane alternative sanctions, one of which is through social reintegration mechanisms. The emphasis on guidance and mentoring demonstrates that the state no longer merely punishes the offender but also facilitates their return as productive and empowered members of society.

Yoesuf explains that the Fifth Principle demands social justice that includes the right of every citizen to obtain proportional opportunities in state and community life. Convicts, although proven to have committed crimes, still possess fundamental rights that must be respected, including the right to receive guidance and the opportunity to reform themselves. By equipping convicts with education programs, skills training, and mental-spiritual guidance, the state actualizes the principle of restorative social justice.

Nur and Mallarangeng note that the humanization of punishment is one of the main pillars of the transformation of national punishment policy. The goal of rehabilitating convicts not only serves to prevent recidivism but also constitutes a form of state responsibility in breaking the cycle of crime by providing a dignified reintegration pathway. From the Pancasila perspective, this step is an embodiment of the principle of Social Justice, which obliges the state to strive for the welfare of all its people without exception.

## 3. The Goal of Conflict Resolution Based on the Third Principle (Unity of Indonesia) and the Fourth Principle (Democracy Led by Wisdom in Deliberation/Representation)

The third purpose, namely resolving conflicts arising from criminal acts, restoring balance, and bringing a sense of security and peace to society, reflects the Third and Fourth Principles of Pancasila. Udytama et al. explain that resolving criminal cases through an approach based on local wisdom that emphasizes deliberation and consensus has, in fact, been a legal tradition of Indonesian society long before the arrival of colonial law. The New KUHP, by formulating the goal of conflict resolution, has harmonized these local values into the national criminal law system.

The Third Principle of Pancasila emphasizes the importance of national unity as a fundamental element of the state. Crime, as an action that wounds the social order, creates conflict and

disrupts the harmony that is a prerequisite for unity. Therefore, a goal of punishment directed at resolving conflict and restoring balance is an effort to maintain national unity against the threat of social disintegration.

Meanwhile, the Fourth Principle places the people as the highest sovereign and the legal subjects that determine the direction of national policy. In the context of resolving criminal conflict, the Fourth Principle encourages the use of deliberative mechanisms as a democratic and participatory method of resolution. Widiyantoro emphasizes that the harmonization of the paradigms of the new Criminal Code and Criminal Procedure Code must be directed at strengthening a judiciary that is responsive to community needs, including through the development of restorative justice that involves the offender, victim, and community in the case resolution process.

Atmoredjo elaborates three principles of deliberation encompassed within Pancasila values: proportionality, responsibility, and resignation (*ketawakalan*). Proportionality requires that the subject and object of deliberation are placed in their proper portions. Responsibility demands that all parties are willing to implement the results that have been agreed upon. Resignation teaches that after maximum deliberative efforts are made, the outcome is entrusted to God Almighty. These principles provide ethical guidance for the implementation of restorative justice in the national criminal justice system, so that the conflict resolution process is not only procedural but also substantive and spiritual.

Muksin observes that by adopting the goal of conflict resolution, the New Criminal Code has moved beyond the conventional offender-centered punishment paradigm toward a more holistic paradigm that considers the interests of victims and the community. This step is an important breakthrough in national criminal law reform that places Pancasila values as the axis of the orientation of punishment.

#### 4. The Goal of Fostering Remorse as a Manifestation of the First Principle (Belief in the One Supreme God)

The fourth purpose, namely fostering a sense of remorse and releasing the convict from guilt, is the clearest expression of the First Principle of Pancasila: Belief in the One Supreme God. Yoesuf affirms that spirituality is an inseparable dimension of the national legal system based on Pancasila. Within this framework, punishment is aimed not only at imposing worldly sanctions but also at encouraging repentance and spiritual reconciliation of the offender with God.

Arafat suggests that the new punishment paradigm in the 2023 Criminal Code accommodates the transcendental dimension through the goal of fostering remorse. This goal is based on the understanding that every human being possesses a moral consciousness directly connected to the Creator. Sincere remorse marks the beginning of a holistic process of self-restoration, viewed not only from the perspective of positive law but also from moral and spiritual standpoints.

Mahmud explains that the First Principle mandates an eternal and direct relationship between the state, citizens, and God. In the context of punishment, this relationship is actualized through the state's efforts to facilitate convicts in rediscovering their religious consciousness and repenting for the wrongs they have committed. Therefore, correctional guidance within

penitentiary institutions must not focus solely on technical skills but must also include deep mental-spiritual development.

Nur and Mallarangeng note that this spiritual dimension also contributes to the effectiveness of crime control. Convicts who have undergone inner transformation through repentance are less likely to reoffend compared to those who merely serve their sentences without moral reflection. Thus, the goal of fostering remorse has a dual function: as a means of spiritual rehabilitation and as an instrument for preventing recidivism.

Aripkaha et al. add that the formulation of the purposes of punishment, including the aspect of remorse, has juridical implications for the development of sentencing guidelines for judges. When imposing a sentence, judges are obliged to consider whether the type and length of the sentence imposed can allow room for convicts to develop awareness and remorse for their actions. Consequently, the norm in Article 51 is not merely declarative but is also operative and binding in judicial practice.

### C. Harmonization of Pancasila Values in the New Punishment System

The four purposes of punishment stipulated in Article 51 of the New Criminal Code demonstrate a harmonious integration of all the principles of Pancasila into a unified construction of the punishment system. Mahmud emphasizes that the transformation of Pancasila values in national criminal law reform must not be carried out partially or sectorally but must be integral-comprehensive, covering all principles in a balanced manner. Article 51 of the New Criminal Code represents an effort to realize this balance through the formulation of objectives that complement one another.

Putra adds that Pancasila ideology as the basis for the purposes of punishment demands a shift from a repressive punishment paradigm to a humanistic one. This aligns with the spirit of decolonizing criminal law, namely efforts to free national criminal law from the influence of colonial paradigms that tend to emphasize retaliation and deterrence alone. The New Criminal Code, by formulating purposes of punishment that encompass corrective, rehabilitative, restorative, and spiritual dimensions, has laid the foundation for a more civilized criminal justice system oriented toward national values.

Widiyantoro underscores the importance of harmonization between the new Criminal Code and the new Criminal Procedure Code so that the formulated purposes of punishment can be effectively implemented in judicial practice. Without alignment between substantive and procedural norms, the ideal purposes of punishment would merely become a utopia. Therefore, the reform of criminal procedural law must be directed to support the execution of the purposes of punishment, for instance, through strengthening restorative justice mechanisms, providing adequate rehabilitation programs, and creating a correctional environment that supports the process of reintegration and repentance of convicts.

Udytama et al. also highlight the need to strengthen the basis of local wisdom in implementing the purposes of punishment, particularly the goal of conflict resolution. Indonesian society possesses various traditions of dispute resolution, such as *runggun* in indigenous communities, customary deliberation, and *pela gandong* in Maluku, all of which embody the values of deliberation, peace, and the restoration of harmony. The incorporation of these local wisdom values into the national criminal justice system will enrich and reinforce the implementation of the purposes of punishment rooted in Pancasila.

## **Conclusion**

The open ideological system of Pancasila provides the flexibility for the explicit regulation of the purposes of punishment in national criminal legislation, as long as such regulation remains faithful to the fundamental legal principles derived from every principle of Pancasila. Article 51 of Law No. 1 of 2023 on the National Criminal Code has formulated four purposes of punishment prevention, social reintegration, conflict resolution, and fostering remorse which substantively reflect and align with all the principles of Pancasila.

The goal of prevention manifests the Second Principle, which prioritizes humanitarian values and social protection. The goal of rehabilitating convicts reflects the Fifth Principle, which calls for social justice through providing opportunities for every citizen to reform and contribute again to society. The goal of conflict resolution rests on the Third and Fourth Principles, which emphasize national unity and deliberative mechanisms as a democratic means of dispute resolution. Meanwhile, the goal of fostering remorse actualizes the First Principle, which affirms the eternal relationship between humans and God Almighty.

Thus, the reform of national criminal law, marked by the formulation of the purposes of punishment in Article 51 of the New Criminal Code, has successfully transformed Pancasila from a mere abstract fundamental norm into an operational normative guide for the administration of criminal justice. The successful implementation of these purposes of punishment in the future depends heavily on continuous harmonization between substantive criminal law and criminal procedural law, as well as the integration of local wisdom and Pancasila values into daily law enforcement practices.

## **References**

A. Arafat, M. (2025). *New punishment paradigm in the 2023 Criminal Code: Alternative sanctions and transformation of the Indonesian criminal justice system*. *Jurnal Ilmu Hukum*, 2(1), 33–46.

<https://www.putrapublisher.org/index.php/jjih/article/view/1047>

B. Arief, B. N. (2009). *The new Criminal Code Bill: A restructuring/reconstruction of the Indonesian criminal legal system*. Badan Penerbit, Universitas Diponegoro.

C. Aripkah, N., Maulana, M. R., & Sudiarsana, I. K. (2026). *Juridical implications of the National Criminal Code sentencing guidelines on the existence of special minimum criminal provisions*. *Jurnal Fundamental Justice*, 7(1), 41–62.

<https://journal.universitاسbumigora.ac.id/fundamental/article/view/6187>

D. Atmoredjo, S. (2016). *Indonesian legal ideology: A study of Pancasila in the perspective of legal science and the state foundation of Indonesia*. Yogyakarta: Lingkar Media Yogyakarta.

E. Hiariej, E. O. (2022). *Principles of criminal law*.

F. Mahmud, A. (2018). *Transformation of Pancasila values in the reform of national criminal law*. *Jurnal Hukum Mimbar Justitia*, 4(1), 1–21.

<https://www.neliti.com/publications/456882/transformasi-nilai-nilai-pancasila-dalam-pembaharuan-hukum-pidana-nasional>

G. Muksin, M. R. S. (2023). *Purposes of punishment in the reform of Indonesian criminal law*. *Sapientia Et Virtus*, 8(1), 225–247.

<https://jurnal.ukdc.ac.id/index.php/SEV/article/view/465>

H. Nur, A. W., & Mallarangeng, A. B. (2026). *Transformation of sentencing policy in the National Criminal Code: Between humanization of punishment and effectiveness of crime prevention*. *Jurnal Kolaboratif Sains*, 9(1), 1414–1421.

<https://jurnal.unismuhpalu.ac.id/index.php/JKS/article/view/10127>

I. Putra, I. M. W. (2022). *Pancasila ideology as the basis of sentencing objectives in national criminal law reform*. *Vyahara Duta*, Edition (1).

<https://ojs.uhnsugriwa.ac.id/index.php/vd/article/download/966/476>

J. Udytama, I. W. W. W., Sugiantari, A. A. P. W., & Anom, I. G. N. (2021). *Harmonization of local wisdom in criminal case resolution from the perspective of the Criminal Code Bill*. *Jurnal Yusthima*, 1(01), 37–42.

<https://e-journal.unmas.ac.id/index.php/yusthima/article/view/2982>

K. Widiyantoro, R. B. (2026). *Harmonization of the paradigm of the new Criminal Code and Criminal Procedure Code: Towards a progressive national criminal justice system*. *Jurnal Hukum Inklusi Indonesia*, 1(1).

<https://jurnal.inklusipemudaindonesia.com/jhii/article/view/21>

L. Yoesuf, M. (2024). *Pancasila as the basis of sentencing objectives in the new criminal law system in Indonesia*. In *Realizing a Pancasila-based national legal system* (p. 17). Fakultas Hukum Universitas.

<https://conference.untag-sby.ac.id/index.php/shnbc/article/view/3640/1914>