

COMPARATIVE ANALYSIS OF THE FUNCTIONS OF PROBATION OFFICERS IN CONDITIONAL SENTENCES UNDER THE FORMER CRIMINAL CODE AND SUPERVISION AND COMMUNITY SERVICE SENTENCES UNDER THE NATIONAL CRIMINAL CODE (A STUDY AT THE CLASS I PROBATION OFFICE OF BANDAR LAMPUNG)



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ABSTRACT

The development of sentencing policy in Indonesia reflects a paradigm shift from imprisonment-oriented punishment toward supervision-based and social reintegration-oriented sanctions. This shift is evident in the comparison between conditional sentences under the former Indonesian Criminal Code (KUHP) and supervision and community service sentences under the National Criminal Code, which has significant implications for the functions of Community Counselors. This study aims to analyze and compare the functions of Community Counselors in the implementation of conditional sentences under the former KUHP with their roles in supervision and community service sentences under the National Criminal Code, with a case study conducted at the Class I Probation Office of Bandar Lampung. The research employs a normative juridical method with statutory and conceptual approaches, supported by empirical data obtained through interviews and document analysis. The findings indicate that under the former KUHP, the role of Community Counselors was largely administrative, focusing on monitoring compliance with sentencing conditions with limited scope for social guidance. In contrast, the National Criminal Code expands the role of Community Counselors to include guidance, supervision, mentoring, and evaluation in the implementation of supervision and community service sentences. This expanded role positions Community Counselors as key actors in the success of non-custodial sanctions aimed at rehabilitation and social reintegration. The study concludes that the sentencing reform under the National Criminal Code necessitates the strengthening of institutional capacity and human resources of Community Counselors to ensure the effective realization of humane and restorative sentencing objectives.

Keywords: *Community Counselors; Conditional Sentences; Supervision Sentences; Community Service Sentences; Former Criminal Code; National Criminal Code*

INTRODUCTION

The development of criminal law policy in Indonesia demonstrates a fundamental shift in the philosophy of punishment, moving away from an imprisonment-oriented approach toward non-custodial sanctions that emphasize supervision, rehabilitation, and social reintegration. This transformation is reflected in the transition from the conditional sentence regime under the former Indonesian Criminal Code (KUHP) to the introduction of supervision sentences and community service sentences under the National Criminal Code. These changes represent a broader commitment to humanizing the criminal justice system by reducing reliance on incarceration and strengthening community-based correctional mechanisms.

Within this evolving sentencing framework, the role of the Community Counselor becomes increasingly significant. Under the former KUHP, conditional sentences were primarily designed as an alternative to imprisonment, allowing offenders to remain in the community subject to certain conditions. However, the function of Community Counselors in this regime was largely limited to administrative supervision and reporting compliance with court-imposed conditions. The scope of intervention was narrow, focusing on control rather than structured guidance, rehabilitation, or social reintegration.

The enactment of the National Criminal Code introduces a more progressive sentencing model through supervision sentences and community service sentences. These sanctions explicitly recognize the importance of guidance, behavioral change, and social responsibility in the correctional process. Consequently, the function of Community Counselors is no longer confined to monitoring compliance but expands to include mentoring, social guidance, evaluation of behavioral progress, and facilitation of reintegration into society. This expanded role positions Community Counselors as central actors in achieving the objectives of modern sentencing, particularly in reducing recidivism and promoting restorative justice.

From a theoretical perspective, this shift aligns with contemporary criminal law thinking that views punishment not merely as retribution, but as a means to restore social order and rehabilitate offenders. Scholars such as Satjipto Rahardjo emphasize that law must serve human interests and social justice, while Barda Nawawi Arief highlights the importance of penal policy reform that balances crime control with offender rehabilitation. In this context, non-custodial sanctions supported by effective community guidance are seen as more responsive to the social realities of crime and punishment.

Institutionally, the Probation Office plays a strategic role in operationalizing these sentencing reforms. As an institution responsible for guidance, supervision, and assessment of clients undergoing non-custodial sanctions, the Probation Office serves as a bridge between judicial decisions and their practical implementation within the community. The effectiveness of supervision sentences and community service sentences is therefore closely tied to the capacity, professionalism, and functional clarity of Community Counselors.

At the Class I Probation Office of Bandar Lampung, the implementation of conditional sentences under the former KUHP and the emerging application of supervision and community service sentences under the National Criminal Code provide a concrete setting for examining these functional changes. Differences in legal norms, institutional practices, and resource readiness raise important questions regarding the consistency, effectiveness, and adaptability of Community Counselor functions across different sentencing regimes. These practical dynamics highlight potential gaps between normative legal reforms and their implementation at the institutional level.

Despite the progressive orientation of the National Criminal Code, challenges remain in translating expanded legal mandates into effective practice. These challenges include limitations in human resources, increased workload for Community Counselors, the absence of detailed technical guidelines, and varying levels of coordination between correctional institutions and the judiciary. Without adequate institutional support, the expanded role of Community Counselors risks becoming symbolic rather than substantive.

Based on these considerations, this study aims to conduct a comparative analysis of the functions of Community Counselors in the implementation of conditional sentences under the former Indonesian Criminal Code and supervision and community service sentences under the National Criminal Code, with a case study at the Class I Probation Office of Bandar Lampung. By examining both normative legal frameworks and empirical practices, this research seeks to assess the extent to which sentencing reform has transformed the role of Community Counselors and to identify structural and institutional factors that influence its effectiveness. Ultimately, this study contributes to the discourse on sentencing reform and community-based corrections in Indonesia by emphasizing the critical role of Community Counselors in realizing humane, rehabilitative, and socially oriented criminal justice objectives.

LITERATURE REVIEW

Studies on criminal law policy and the implementation of sentencing systems have been extensively discussed in the field of criminal law and criminology. Muladi (1998) explains that punishment is not merely an instrument of retaliation, but a means to achieve broader objectives, including social protection and the rehabilitation of offenders. This view is reinforced by Sudarto (1986), who emphasizes that criminal law must develop in line with social change and should not rely solely on punitive approaches that neglect the human dimension of offenders.

Arief (2017) highlights that modern criminal law policy increasingly prioritizes the use of non-custodial sanctions as an alternative to imprisonment. According to him, the overuse of imprisonment often leads to negative social consequences and fails to achieve the rehabilitative goals of punishment. This perspective aligns with Muladi and Arief (2010), who argue that sentencing policies must balance legal certainty, justice, and societal benefit, particularly by strengthening community-based sanctions.

From a comparative law perspective, Zweigert and Kötz (1998) as well as David and Brierley (1985) argue that sentencing systems cannot be separated from the social, cultural, and legal traditions of each country. Their analysis shows that many legal systems have shifted toward probation, supervision, and community service as effective responses to crime, especially in addressing prison overcrowding and enhancing offender reintegration. These developments are relevant to the reform of Indonesia's criminal justice system as reflected in the enactment of the National Criminal Code.

Legal system theory further supports this shift. Friedman (1975) conceptualizes the legal system as consisting of legal substance, legal structure, and legal culture. Within this framework, the effectiveness of non-custodial sanctions depends not only on statutory provisions, but also on institutional actors responsible for implementation. In Indonesia, the Probation Office (Balai Pemasyarakatan) functions as a crucial component of the legal structure, particularly in supervising and guiding offenders subject to conditional sentences and supervision-based sanctions.

Concept of Criminal Law Policy

Criminal law policy is a strategic framework aimed at determining how criminal law should be formulated and enforced to achieve societal objectives. According to Sudarto (1983), criminal law policy is closely related to social policy, as it reflects the values and priorities of society. Muladi (1998) further explains that criminal law policy must integrate preventive and repressive measures to ensure effective crime control.

Arief (2017) argues that criminal law policy should emphasize rational and humane approaches, particularly through the use of non-imprisonment sanctions. These sanctions are designed to minimize the negative effects of incarceration while still maintaining accountability and legal certainty. Within this framework, probation and supervision-based sanctions function as instruments of both prevention and rehabilitation.

Probation and Non-Custodial Sanctions

Probation and supervision-based sanctions constitute essential components of modern sentencing systems. Atmasasmita (2011) explains that the contemporary criminal justice system increasingly relies on integrated mechanisms that involve multiple institutions working collaboratively. In this context, probation officers serve as key actors in supervising offender behavior and facilitating social reintegration.

Jannata and Widodo (2020) emphasize that effective probation depends on structured assessment, consistent supervision, and personalized guidance. Through these mechanisms, probation functions not only as a means of control, but also as a form of legal protection that ensures offenders' rights and dignity are upheld during the execution of non-custodial sanctions.

METHOD

This study employs a descriptive-analytical research method with a normative-empirical approach to examine and compare the functions of probation officers in the implementation of conditional sentences under the Old Criminal Code and supervision and community service sentences under the National Criminal Code. The research is designed to analyze both the normative legal framework governing these sentencing models and their practical implementation within the probation system.

The research was conducted at the Class I Probation Office of Bandar Lampung, as the institution authorized to carry out guidance, supervision, and assistance for correctional clients subjected to non-custodial sanctions. The selection of this research location was based on its strategic role in implementing probation-related functions under both the previous and the current criminal law regimes, particularly in relation to supervision-based sanctions. Data were obtained from primary and secondary sources.

Primary data were collected through in-depth interviews and field observations. Interviews were conducted with probation officers, institutional officials, and relevant practitioners to obtain empirical information regarding the execution of probation functions, supervision mechanisms, guidance strategies, and challenges encountered in the implementation of conditional sentences, supervision sentences, and community service sentences. Field observations were carried out to examine institutional practices, interaction patterns between probation officers and clients, and the operational dynamics of supervision and guidance.

Secondary data were derived from legal instruments, official documents, and academic literature relevant to the research topic. These included the Old Criminal Code (Law No. 1 of 1946), the National Criminal Code (Law No. 1 of 2023), Law No. 22 of 2022

on Corrections, internal regulations of the Probation Office, court decisions, and scholarly works referenced in the thesis. These sources were used to construct the normative framework and to support the comparative legal analysis.

Data collection was conducted through three main techniques: document study, interviews, and observations. The collected data were analyzed qualitatively using a comparative and thematic analysis method. Normative data were analyzed by comparing legal provisions governing probation officer functions under the Old Criminal Code and the National Criminal Code, while empirical data were analyzed to assess how these functions are implemented in practice.

The analysis focused on identifying similarities, differences, and shifts in the role of probation officers, as well as evaluating institutional readiness and challenges in adapting to the new sentencing framework. This method enables a comprehensive understanding of the transformation of probation functions within Indonesia's evolving criminal justice system.

RESULTS AND DISCUSSION

Comparison of the Functions of Probation Officers between Conditional Sentences and Supervision and Community Service Sentences at the Class I Probation Office of Bandar Lampung

The findings of this study reveal fundamental differences in the functions of Probation Officers between the implementation of conditional sentences under the former Indonesian Criminal Code and the supervision and community service sentences introduced under the National Criminal Code. Under the conditional sentence regime of the former Criminal Code, the role of the Probation Officer was largely limited to administrative supervision, focusing on monitoring the fulfillment of conditions imposed by the court. In this framework, probation supervision primarily emphasized legal compliance rather than behavioral change or social rehabilitation.

At the Class I Probation Office of Bandar Lampung, the implementation of conditional sentences demonstrates that probation guidance was predominantly oriented toward routine reporting, behavioral monitoring, and formal compliance with court-mandated obligations. This practice reflects a traditional punitive paradigm in which supervision functions as a control mechanism rather than a rehabilitative tool. Consequently, the interaction between Probation Officers and clients tended to be procedural and minimal, limiting the potential for meaningful behavioral transformation and long-term reintegration.

The supervision sentence and community service sentence under the National Criminal Code signify a substantial expansion of the functions of Probation Officers. Probation Officers are no longer confined to supervisory roles but are expected to act as mentors, facilitators, and agents of social reintegration. The supervision sentence requires Probation Officers to actively design guidance plans, monitor client progress, and conduct periodic evaluations of behavioral development, thereby integrating rehabilitation into the sentencing process.

The community service sentence further strengthens this rehabilitative orientation. In its implementation, Probation Officers play a strategic role in determining appropriate community service activities based on the client's personal background and social context, supervising the execution of such activities, and assessing their impact on the client's sense of social responsibility. The findings indicate that community service sentences provide greater opportunities for constructive interaction between clients and the community, enabling probation guidance to function not only at an individual level

but also within a restorative social framework.

This comparative analysis demonstrates that the National Criminal Code normatively positions Probation Officers as central actors in non-custodial sentencing. Their role extends beyond ensuring legal compliance to actively promoting rehabilitation and social reintegration. However, the effectiveness of this expanded function is closely linked to the institutional readiness of probation offices to adapt to these new responsibilities.

Readiness of the Class I Probation Office of Bandar Lampung in Anticipating the Implementation of the National Criminal Code

The study indicates that the Class I Probation Office of Bandar Lampung has a normative understanding of the paradigm shift introduced by the National Criminal Code, particularly regarding the strengthening of supervision and community service sentences. Institutionally, the probation office possesses an established organizational structure and experienced human resources, which constitute an essential foundation for the implementation of the new sentencing model.

Empirical findings reveal several challenges affecting institutional readiness. A major constraint is the high workload borne by Probation Officers, which is not proportional to the increasing number of clients requiring intensive supervision and guidance. The implementation of supervision and community service sentences demands a higher level of engagement and continuity than conditional sentences, thereby placing additional pressure on existing human resources.

Infrastructure and logistical limitations also affect readiness. The execution of community service sentences requires strong coordination with governmental agencies, social institutions, and community organizations that serve as placement sites. This study finds that such inter-institutional coordination has not yet been systematically established, potentially hindering the effective implementation of community service sanctions.

From a regulatory perspective, the absence of detailed technical guidelines governing the implementation of supervision and community service sentences poses further challenges. The lack of standardized operational procedures may result in inconsistent practices and varied interpretations among Probation Officers, ultimately affecting the quality and uniformity of probation services.

Despite these constraints, the study concludes that the Class I Probation Office of Bandar Lampung has significant potential to effectively implement the National Criminal Code. Through strengthening the capacity of Probation Officers, enhancing institutional resources, and improving coordination with relevant stakeholders, probation institutions can play a pivotal role in realizing the objectives of the National Criminal Code, which emphasizes humane, rehabilitative, and socially oriented sentencing aimed at sustainable social reintegration.

CONCLUSIONS AND SUGGESTIONS

This study concludes that the function of Probation Officers under conditional sentences as regulated in the former Indonesian Criminal Code was predominantly limited to administrative supervision and compliance monitoring, with minimal emphasis on structured guidance and rehabilitative intervention. In contrast, the supervision sentence and community service sentence introduced under the National Criminal Code represent a significant paradigm shift by positioning Probation Officers as active agents of rehabilitation, behavioral guidance, and social reintegration. This shift reflects the

broader orientation of the National Criminal Code toward non-custodial, rehabilitative, and restorative sentencing models.

The comparative analysis demonstrates that supervision and community service sanctions require Probation Officers to design individualized guidance plans, monitor behavioral progress, coordinate with community institutions, and evaluate the social impact of sentencing outcomes, thereby expanding both the scope and responsibility of probation services. However, the readiness of the Class I Probation Office of Bandar Lampung to implement these expanded functions has not yet reached an optimal level due to structural challenges, including high caseloads, limited human resources, insufficient infrastructure, and the absence of detailed technical and operational guidelines governing supervision and community service sentences.

Therefore, this study recommends strengthening institutional capacity through the formulation of standardized implementation guidelines, enhancement of probation officer competencies through continuous training, improvement of inter-agency and community coordination mechanisms, and increased policy and resource support from the government. These measures are essential to ensure that the implementation of supervision and community service sentences under the National Criminal Code can effectively realize their rehabilitative objectives and contribute to a more humane, effective, and socially oriented criminal justice system.

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