



Recidivism Policy in the National Criminal Code: Sanctions and Rehabilitation

Harya Juang Siregar^{1*}, Adi Mansar²


¹ Magister Ilmu Hukum Sekolah Pascasarjana, Indonesia

² Universitas Muhammadiyah Sumatera Utara, Indonesia

*Corresponding Author: haryajsiregar@gmail.com

Abstract: This study analyzes criminal law policies towards recidivism from the perspective of the principle of increased sanctions and the rehabilitative objectives of punishment in Law Number 1 of 2023 concerning the Criminal Code. Using normative juridical methods and a legislative approach, this study examines the paradigm shift from a retributive model to a more humanistic and proportional approach. The National Criminal Code regulates general recidivism with the possibility of increasing the sentence to one-third of the maximum threat, but still places it within the framework of criminal objectives that include prevention, development, and restoration of social balance. The results of the study indicate that policies towards recidivism are no longer solely repressive, but are integrated with the principle of individualization of punishment and a rehabilitative approach strengthened by the correctional system in Law Number 22 of 2022 concerning Corrections. This reorientation emphasizes the balance between community protection and reintegration of offenders to reduce recidivism sustainably.

Keywords: Recidivism, National Criminal Code, Purpose of Punishment, Rehabilitative.

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Abstrak: Penelitian ini menganalisis kebijakan hukum pidana terhadap residivisme dari perspektif prinsip pemberatan pidana dan tujuan rehabilitatif pemidanaan dalam Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana. Dengan menggunakan metode yuridis normatif dan pendekatan perundang-undangan, penelitian ini mengkaji pergeseran paradigma dari model retributif menuju pendekatan yang lebih humanistik dan proporsional. KUHP Nasional mengatur residivisme umum dengan kemungkinan pemberatan pidana hingga sepertiga dari ancaman pidana maksimum, namun tetap menempatkannya dalam kerangka tujuan pemidanaan yang mencakup pencegahan, pembinaan, dan pemulihan keseimbangan sosial. Hasil penelitian menunjukkan bahwa kebijakan terhadap residivisme tidak lagi semata-mata bersifat represif, melainkan terintegrasi dengan prinsip individualisasi pemidanaan dan pendekatan rehabilitatif yang diperkuat melalui sistem pemasyarakatan sebagaimana diatur dalam Undang-Undang Nomor 22 Tahun 2022 tentang Pemasyarakatan. Reorientasi ini menekankan keseimbangan antara perlindungan masyarakat dan reintegrasi pelaku tindak pidana guna mengurangi tingkat residivisme secara berkelanjutan.

Kata kunci: Residivisme, Kitab Undang-Undang Hukum Pidana Nasional, Tujuan Pemidanaan, Rehabilitatif.

Introduction

The Republic of Indonesia is a state of law, as stated in the provisions of Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Furthermore, Article 27 Paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that all citizens have equal standing before the law and government and are obliged to uphold the law and government without exception. The concept of a state of law (*rechtstaats*) in Indonesia must be in accordance with the values reflected in Pancasila. A complete understanding of the concept of a state of law based on Pancasila can be seen from the process and background of the birth of the formulation of the Preamble to the 1945 Constitution of the Republic of Indonesia which is a statement of the will for the birth of the Indonesian state.¹

There are three main issues in criminal law. The first is the problem of criminal acts, the second is the problem of criminal responsibility, which in this case is closely related to individuals and corporations, and the third is the

¹ Mhd Teguh Syuhada Lubis dkk, "Pengawasan Kewenangan Diskresi Kepolisian Terhadap Penghentian Penyidikan Tindak Pidana Berdasarkan Keadilan Restoratif Di Kepolisian Daerah Sumatera Utara," *IURIS STUDIA: Jurnal Kajian Hukum* 5, no. 1 (2024).

punishment (sanctions) given to every person who commits a crime. Specifically regarding the problem of punishment as a main issue of criminal law, which raises important issues regarding the concept of the purpose of punishment, in order to find a justification for the imposition of punishment, as an effort to make punishment more functional. Criminal law functions to regulate and organize the life of society in order to create and maintain public order. This is based on the many interests and needs among humans, which are different from one another, not only different but sometimes conflicting.²

To prevent the emergence of attitudes and actions that harm the interests and rights of others in order to fulfill these needs, laws are needed to provide guidelines in the form of boundaries so that people will not act arbitrarily in their efforts to achieve and fulfill these interests. Society assumes that anyone who has been convicted, serves it and then commits a crime again, here there is a repetition, without considering other conditions. In everyday life, often seeing and hearing from various mass media about repeating criminal acts (recidivists) is still considered an aggravating factor. The public has a diverse understanding of recidivism. Recidivism in general is understood as a broad term that refers to repeated criminal behavior (relapse of criminal behavior), including due to a rearrest, reconviction, and reimprisonment.³

A recidivist is also defined as a person who repeats a crime.⁴ Meanwhile, according to the Big Indonesian Dictionary, recidivism is defined as the tendency of an individual or group to repeat a despicable act even though they have been punished for committing that act. However, as a concept in criminal law, a person can only be called a recidivist or commit a recidivism if the person repeats the crime under certain conditions which can then have implications for a heavier sentence. Recidivist comes from French, taken from two Latin words, namely *re* and *cado*, *re* meaning again and *cado* meaning to fall.

Recidivism refers to a tendency to commit crimes repeatedly, and the person is called a recidivist. According to the legal dictionary, a recidivist is

² Adami Chazawi, *Pelajaran Hukum Pidana 2* (Rajawali Pers: Rajawali Pers, 2011).

³ Fazel S dan Wolf A, "A Systematic Review of Criminal Recidivism Rates Worldwide: Current Difficulties and Recommendations for Best Practice," *PLoS ONE* 10, no. 6 (2015), <https://doi.org/doi:10.1371/journal.pone.013039>.

⁴ Aruan Sakidjo dan Bambang Poernomo, *Hukum Pidana Dasar Aturan Umum Hukum Pidana Kodifikasi* (Jakarta: Ghalia Indonesia, 1990).

someone who commits crimes repeatedly and is repeatedly punished.⁵ The Criminal Code (KUHP) does not provide a specific definition of recidivism, nor does it specifically regulate it in the General Rules in Book I of the KUHP. Recidivism, which in KUHP terms is referred to as "repetition of a criminal act," is regulated in detail in Books II and III of the KUHP.⁶ There are even provisions regarding the repetition of criminal acts that are regulated separately as *lex specialis* in several laws outside the Criminal Code, such as those contained in Law Number 35 of 2009 concerning Narcotics (Narcotics Law), Law Number 5 of 1997 concerning Psychotropics (Psychotropic Law), and in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law) and others. For example, in 2024 in West Nusa Tenggara, especially in East Lombok Regency, there were many cases of motor vehicle theft committed by perpetrators who repeatedly committed motor vehicle theft (Curanmor).

The perpetrator has repeatedly committed the crime of theft, so that the person can be said to have committed a repeat offense, which can result in a heavier sentence. Various questions often arise regarding the concept of recidivism, including how the concept of recidivism is actually adopted in the Criminal Code, whether recidivism applies to similar crimes or all types of crimes. Judges are often faced with the question of whether a person can be given a heavier sentence for repeat offenses if he was previously found guilty of theft, then several years after serving his sentence he is again charged with the crime of assault. Questions like this are certainly often faced by law enforcement officers in general, therefore law enforcement officers should properly understand the concept, including the public.

The issue of imposing increased penalties cannot be separated from the purpose of punishment itself. This can be interpreted as punishment being imposed as retribution for the hardship caused by the perpetrator of the crime. Regarding the issue of imposing penalties and the implementation of criminal law, particularly regarding the issue of sentence aggravation, a punishment cannot be limited to a single factor. The focus of the purpose of punishment in

⁵ J.C.T. Simorangkir, *Kamus Hukum* (Jakarta: Sinar Grafika, 2008).

⁶ Rahmi Dwi Sutanti, "Kebijakan Aplikatif Pemberatan Pidana Bagi Pelaku Pengulangan Tindak Pidana," *Indonesian Journal Of Criminal Law Studies IJCLS II Universitas Negeri Semarang* 2, no. 1 (2017).

the National Criminal Code is on protecting society from the dangers posed by the perpetrator or perpetrator of the crime by conducting resocialization for the perpetrator. Judges, in imposing increased penalties for repeat offenses, generally rely on the astuteness of investigators and prosecutors. Sometimes judges only discover a person is a recidivist during the trial, but this approach can sometimes allow the defendant to avoid reducing the sentence they might receive.

Rahardjo explained that legal protection is providing protection for Human Rights (HAM) that are harmed by other people and this protection is given to the community so that they can enjoy all the rights granted by law.⁷ Then, according to Marzuki, this legal protection is closely related to the purpose of the law itself. The purpose of the law is directed at something to be achieved, therefore, it cannot be denied that the purpose refers to something ideal so that it is perceived as abstract and not operational. In its development, related to the purpose of criminal law itself, it can be categorized into 2 (two): namely to scare everyone from committing bad acts and also to educate people who have committed bad acts to be good and can be accepted back into their community.

Practices in the field certainly do not rule out the possibility of weaknesses in law enforcement officers who are negligent in knowing whether someone is a recidivist or not. Currently, the concept of recidivism in Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code) has undergone changes from the current Criminal Code, which is considered quite complicated, to a simpler concept for application in the field. The study of this recidivism concept is very interesting to examine, how the criminal system for recidivism currently applies in the Criminal Code, as well as how the new concept is regulated in the National Criminal Code.

Several previous studies have examined the reformulation of sentencing objectives and rehabilitative approaches within modern criminal justice systems. Yohanes Pande et al. investigated the reformulation of sentencing objectives in the Indonesian National Criminal Code from the perspective of restorative justice. Their findings indicate that the National Criminal Code has

⁷ Muhammad Teguh Syuhada Lubis, 2021, Prinsip Restorative Justice dalam Sistem Pemidanaan Anak sebagai Pelaku Kejahatan Narkotika, SiNTESa , Seminar Nasional Teknologi Edukasi dan Humaniora, ke-1 e-ISSN 2797-9679, hlm. 932.

shifted the orientation of punishment from a predominantly retributive paradigm toward victim restoration, offender rehabilitation, and the maintenance of social harmony. Nevertheless, the implementation of restorative justice-based sentencing objectives continues to face various challenges, particularly regarding the preparedness of law enforcement institutions and the need for more operational implementing regulations.⁸

A study conducted by Amit Maheshwari on the effectiveness of rehabilitation compared to punishment in reducing recidivism demonstrated that purely punitive approaches are not always effective in preventing repeat offending. The study emphasized the importance of integrating legal measures with rehabilitation programs, education, counseling, and social reintegration initiatives in order to sustainably reduce recidivism rates. These findings highlight the significant role of rehabilitative orientations within contemporary criminal justice systems.⁹

Furthermore, Sumartini Dewi and Sri Setiawati examined the reorientation of sentencing objectives in the National Criminal Code through a humanistic approach. Their research revealed that the National Criminal Code no longer views punishment solely as a mechanism of retribution; rather, it functions as a legal instrument aimed at protecting society, restoring victims, rehabilitating offenders, and achieving more substantive justice. Accordingly, Indonesia's criminal law reform is directed toward establishing a balance between social protection and the restoration of social relationships disrupted by criminal conduct.¹⁰

Although these studies have made significant contributions to the understanding of sentencing objectives, restorative justice, humanistic approaches, and offender rehabilitation, they have not specifically addressed criminal law policy concerning recidivism under Law Number 1 of 2023

⁸ Yohanes Pande, Eko Budi Sariyono, Ade Ari Gumilar, and Stelvia W. Noya. "Reformulation Of Punishment Objectives In The National Criminal Code: A Restorative Justice Perspective." *International Journal of Health, Economics, and Social Sciences (IJHESS)* 8, no. 1 (2026): 506-511.

⁹ Amit Maheshwari. "Rehabilitation v. Punishment: Evaluating Effectiveness in reducing Recidivism." *GLS Law Journal* 8, no. 1 (2026): 41-49.

¹⁰ Sumartini Dewi, and Sri Setiawati. "Reorientation of the Purpose of Punishment in the National Criminal Code: A Humanistic Approach in Indonesian Criminal Law." *Journal of Law, Politic and Humanities* 6, no. 3 (2026): 1923-1934.

concerning the Criminal Code. In particular, no study has been identified that analyzes how the regulation of recidivism in the National Criminal Code integrates the principle of sentence enhancement for repeat offenders with the rehabilitative objectives of punishment within a comprehensive criminal law policy framework. This issue is particularly important because recidivism represents an area in which a potential tension exists between the need to create a deterrent effect through enhanced penalties and the rehabilitative objectives that have become a central orientation of the national sentencing system.

Against this backdrop, the present study aims to analyze criminal law policy concerning recidivism under Law Number 1 of 2023 concerning the Criminal Code, with particular emphasis on the application of sentence enhancement principles and the rehabilitative objectives of punishment. In addition, this study seeks to examine how a balance among social protection, sentence enhancement, and offender rehabilitation is reflected in the regulation of recidivism under the National Criminal Code.

Method

This research is a legal study using a statute approach. The research method used in this paper is legal research as a process to provide solutions to existing legal issues by using normative juridical methods.¹¹ This study uses secondary data sources with primary legal materials, secondary legal materials, and tertiary legal materials. The research specification used in this study is analytical descriptive research, namely describing applicable laws and regulations in relation to legal theories and the practice of implementing positive law concerning the formulated problems.¹² In other words, this research is library research, meaning that this research is carried out by reading works related to the problem to be studied and then including a study of the research.¹³

¹¹ Rahmat Ramadhani dkk, "Urgensi Penataan Akses Permodalan Pasca-Redistribusi Tanah Di Provinsi Sumatera Utara," *SANKSI: Seminar Nasional Hukum, Sosial Dan Ekonomi* 2, no. 1 (2023).

¹² Ismail Koto, "Perkembangan Hak Kekayaan Intelektual Komunal Di Indonesia," *SANKSI: Seminar Nasional Hukum, Sosial Dan Ekonomi* 2, no. 1 (2023).

¹³ Mestika Zed, *Metode Penelitian Kepustakaan* (Jakarta: Yayasan Obor Indonesia, 2007).

Results and Discussion

Criminal Law Policy on Recidivism in the National Criminal Code

The reform of the National Criminal Code (KUHP) marks a significant paradigm shift in the history of Indonesian criminal law. For decades, our penal system has been heavily influenced by a retributive approach that emphasizes retribution or appropriate retribution against criminals through imprisonment as the dominant sanction. This retributive model tends to focus solely on retribution without adequately considering the role of rehabilitation or social reintegration of offenders, thus contributing to overcrowding in correctional institutions and high recidivism rates, which are less productive for community reintegration.¹⁴

Accordingly, the new Criminal Code introduces a more humanistic orientation to punishment, making the goal of punishment not solely severe punishment but also facilitating the perpetrator's rehabilitation and reintegration into society. This approach emphasizes not only the value of substantive justice but also seeks to address broader social needs, including attention to humanitarian aspects, ongoing crime prevention, and the educational function of punishment itself.

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¹⁴ Andi Wahyuddin Nur Dkk, "Transformasi Kebijakan Pemidanaan Dalam Kuhp Nasional: Antara Humanisasi Hukuman Dan Efektivitas Penanggulangan Kejahatan," *Jurnal Kolaboratif Sains* 9, no. 1 (2025).

¹⁵ M. F Ismawati, S., & Hertini, "Transformasi Kebijakan Pemidanaan Dalam Kuhp Nasional: Menuju Sistem Pemidanaan Yang Berkeadilan Dan Humanis," *Simbur Cahaya* 3, no. 1 (2025).

actions. This has been empirically proven to reduce recidivism rates and increase legal compliance.¹⁶

This change is reflected in the more comprehensive setting of sentencing objectives in the new Criminal Code, which encompass rehabilitation, social reintegration, and the restoration of social balance between the perpetrator, victim, and community. Compared with the old Criminal Code, which largely emphasized deterrence and retaliation, this humanist approach allows for alternative sanctions and more flexible legal strategies, thus giving perpetrators the opportunity to improve their behavior without being trapped solely in the cycle of imprisonment. One of the main innovations in the National Criminal Code is the implementation of alternative sanctions as part of a humane and proportionate penal reform. Alternative sanctions include community service, supervision, fines, and special rehabilitation programs tailored to the characteristics of the perpetrator and the seriousness of the crime. This approach not only reduces reliance on imprisonment but also emphasizes the rehabilitative and reintegrative functions of perpetrators, thus expected to accelerate social recovery and prevent recidivism.

The implementation of rehabilitation is the realization of a regulation, this is very important because through implementation it can be known whether a regulation has actually been implemented or not.¹⁷ In addition to social rehabilitation, the implementation of alternative sanctions also improves the efficiency of the criminal justice system. By reducing the number of cases requiring imprisonment, the burden on correctional institutions can be reduced, thereby reducing overcrowding and allowing for more effective resource allocation for cases requiring incarceration. Empirical studies show that offenders who serve alternative sentences tend to have lower recidivism rates than those who are solely incarcerated, as rehabilitation programs provide

¹⁶ D Tirtayasa, Y., & Purnomo, "Kontradiksi Dan Transformasi Hukum Pada Pergeseran Sistem Pemasarakatan Dari Retributif Ke Reintegrasi Sosial Di Indonesia Keywords Abstrak Kata Kunci," *Yustisia Tirtayasa* 5, no. 2 (2025).

¹⁷ T. Erwinsyahbana, "Rehabilitation Measures for Suspected Narcotics Addicts at the Police Investigation Stage (Study at the North Sumatra Police Drug Investigation Directorate)," *IJRS: International Journal Reglement & Society* 3, no. 3 (2022).

the social skills, education, and psychological support necessary for reintegration into society.¹⁸

The successful implementation of alternative sanctions is not without challenges. Good coordination is required between law enforcement officials, correctional institutions, and social institutions implementing rehabilitation programs. Furthermore, judges need clear guidelines for assessing the proportionality of punishment and the appropriateness of alternative sanctions for each case, so that the goals of humanizing punishment and effectively combating crime can be optimally achieved.

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Harmonization of legal regulations and procedures is also a crucial factor. The new Criminal Code establishes guidelines for humane sentencing sanctions and objectives, but its implementation must be consistent with other implementing regulations, previous judicial decisions, and the criminal justice system as a whole. Without proper coordination and legal certainty, the risk of differing interpretations remains high, leading to inconsistent criminal decisions and legal uncertainty. The development of modern criminal law policy no longer solely emphasizes a repressive approach but also integrates rehabilitative and social reintegration goals as part of the correctional system.²⁰ From this perspective, recidivism is not only understood as an individual failure, but also as a reflection of a suboptimal prisoner development system.

¹⁸ R Silalahi, H., Sahlepi, M. A., & Sidi, "Penerapan Hukuman Alternatif Untuk Pelaku Kejahatan Ringan Sebagai Upaya Dekongesti Lembaga Pemasyarakatan," *JIIP-Jurnal Ilmiah Ilmu Pendidikan* 7, no. 5 (2024).

¹⁹ R. D. Sutanti, "Kebijakan Aplikatif Pemberatan Pidana Bagi Pelaku Pengulangan Tindak Pidana," *Indonesian Journal of Criminal Law Studies* 7, no. 1 (2022).

²⁰ M. D. Hersyanda, "Efektivitas Sanksi Pidana Terhadap Pengulangan Kejahatan (Residivisme) Di Indonesia," *Jurnal Ilmiah Mahasiswa Multidisiplin* 1, no. 3 (2023).

The sentencing policy for recidivists in the National Criminal Code must be understood as a balance between harsh sanctions and a rehabilitative orientation to consistently reduce the rate of reoffending.²¹

Criminal Policy for Recidivists: Integrating Community Protection and Rehabilitation

Law Number 1 of 2023 concerning the Criminal Code, specifically regulates the repetition of criminal acts, namely in Chapter II Criminal Acts and Criminal Responsibility Paragraph 6 Article 23. Article 23 stipulates that:²²

1. Repetition of criminal acts occurs if every person;
 - a) Committing a crime again within 5 (five) years after serving all or part of the principal sentence imposed or the principal sentence imposed has been revoked; or
 - b) At the time of committing the crime, the obligation to serve the principal sentence previously imposed has not yet expired.
2. The crimes referred to in paragraph (1) include crimes punishable by a special minimum sentence, imprisonment of 4 (four) years or more, or a fine of at least category III;
3. The provisions referred to in paragraph (1) also apply to crimes concerning assault. Furthermore, Article 58 stipulates that: Factors aggravating the penalty include:
 - a) An official who commits a crime that violates specific official obligations or commits a crime by abusing the authority, opportunity, or means granted to him by virtue of his position;
 - b) Use of the national flag, national anthem, or national symbol of Indonesia while committing a crime; or
 - c) Repeated crime. Article 59 also stipulates that: The aggravation referred to in Article 58 may be increased by a maximum of 1/3 (one-third) of the maximum criminal penalty.

The provisions regarding the aggravation of criminal penalties as regulated in Article 58 and Article 59 are actually not much different from those in the

²¹ D. Agusta, "Reforming Indonesian Criminal Law: Integrating Supervision, Punishment, and Rehabilitation for Restorative Justice," *International Journal of Islamic Education, Research and Multiculturalism* 7, no. 1 (2024).

²² Titin Nurfatlah, "Konsep Residive Dalam Kitab Undang-Undang Hukum Pidana Nasional Ditinjau Dalam Perspektif Tujuan Pemidanaan," *UnizarLaw Review* 7, no. 1 (2024).

Criminal Code that is still in force today, that the aggravation of criminal penalties applies to acts of abuse of official authority by civil servants (expanded to include state officials and law enforcement officers), the use of flags when committing crimes (expanded to include the national anthem and state symbols), and the repetition of criminal acts (recidive). Meanwhile, for the combination/concursus is also regulated in another article with the term "concurrent".

The concept of recidivism regulated in the National Criminal Code adopts the "Algemene Recidive" or general recidivism system, meaning that it no longer differentiates between the types of crimes or groups of crimes that are repeated, the period for a person to be subject to aggravation due to recidivism is "5 (five) years" after serving all or part of the principal sentence imposed or the principal sentence imposed has been revoked, or at the time of committing the Crime, the obligation to serve the principal sentence previously imposed has not expired (still serving the sentence). The aggravation of the sentence is by adding 1/3 of the maximum criminal threat. In addition, recidivists may not only be sentenced to a fine by the judge for crimes that carry a criminal penalty of less than 5 years in prison.

If we look at the objectives of criminal punishment, in Law Number 1 of 2023 concerning the Criminal Code as stipulated in Article 51, that: Criminal punishment aims to:

1. Preventing criminal acts by enforcing legal norms for the protection and care of society;
2. Socializing convicts by providing guidance and mentoring to help them become good and useful individuals;
3. Resolving conflicts arising from criminal acts, restoring balance, and fostering a sense of security and peace in society; and
4. Cultivating a sense of remorse and absolving convicts of guilt.

In the reform of criminal law in Indonesia, there is a philosophy of punishment based on Pancasila, which states that punishment and sentencing are intended to create balance and harmony between the interests of the individual, society, and the state. Barda Nawawi Arief calls this a monodualistic balance aimed at prevention rather than retaliation. In Law Number 1 of 2023 concerning the Criminal Code, an original product of the Indonesian nation,

the purpose of punishment combines criminal law enforcement and prevention to protect the community.

As previously mentioned, the purpose of aggravated punishment is the same as that of punishment itself: to deter someone from committing a crime. By increasing the threat of punishment, it is hoped that people will be afraid to commit a crime or repeat it. Therefore, punishment (heavier punishment) here has both a preventative and educational function. The goal is that for those who fall into the recidivists category, the threat of increased punishment will at least make them think twice about carrying out their evil intentions. Even if they do end up committing or repeating their actions, it will be after they have served their sentence in a correctional institution.

The reorientation of criminal punishment policy toward recidivism in the National Criminal Code must be understood as an effort to balance the function of community protection with a just, rehabilitative approach. Law Number 1 of 2023 concerning the Criminal Code emphasizes that the purpose of punishment is not solely for retribution, but also to prevent criminal acts, resolve conflicts arising from criminal acts, restore balance, and develop convicts to become better and more useful individuals. This concept demonstrates that recidivism can no longer be viewed simply as an automatic reason to increase punishment, but rather must be analyzed proportionally based on the level of danger, patterns of repetition, and the perpetrator's criminogenic factors.

The ideal form of policy reorientation is reflected in the application of the principle of individualized sentencing and a double-track system, which combines punishment and enforcement. For high-risk recidivists, particularly those who commit serious and repeat crimes, increased sentencing remains necessary as a means of social defense. However, for recidivists with a background of drug addiction, poverty, or previous failures in rehabilitation, a rehabilitative approach, including therapy, counseling, job training, and needs-based rehabilitation, is more relevant than simply increasing prison sentences. This approach aligns with the correctional policy outlined in Law Number 22 of 2022 concerning Corrections, which emphasizes risk and needs assessment as the basis for prisoner rehabilitation to prevent re-offending.

Thus, the integration of selectively imposing sanctions and structured rehabilitation reflects a paradigm shift from a repressive model to a corrective-

reintegrative model. This reorientation not only protects society from the threat of recidivism but also provides a fair opportunity for offenders to improve themselves and return as productive members of society. From the perspective of modern sentencing objectives theory, this policy reflects a synthesis of relative (deterrence) and combined theories that place justice, expediency, and restoration as the primary orientations of sentencing.²³

Conclusion

The criminal law policy regarding recidivism in Law Number 1 of 2023 concerning the Criminal Code marks a paradigm shift from a retributive approach to an integrative, proportional punishment model that balances community protection and offender rehabilitation. Repetition of criminal acts remains an aggravating factor, with the general recidivism system and increased sentences of up to one-third of the maximum sentence as a preventive instrument and a form of social protection. However, these aggravations are not based solely on retaliation but must be read within the context of the objectives of punishment, which include prevention, development, restoration of balance, and social reintegration. Therefore, the policy regarding recidivism in the National Criminal Code is not purely repressive, but integrates the principle of individualized punishment, a two-track system (criminal and action), and support for risk-assessment-based rehabilitation, as reinforced in Law Number 22 of 2022 concerning Corrections. This model reflects a monodualistic balance between individual and societal interests, and is expected to be able to suppress recidivism more effectively, fairly, and sustainably.

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Author Contributions Statement

HJ, was responsible for the conceptualization of the study, research design, data collection and analysis, methodology development, manuscript drafting, and

²³ Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana: Perkembangan Penyusunan Konsep KUHP Baru* (Jakarta: Kencana, 2017).

revision. AM, contributed to the supervision of the research, validation of the legal analysis, critical review of the manuscript, and final editing. Both authors have read and approved the final version of the manuscript and agree to be accountable for all aspects of the work.

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The authors used Artificial Intelligence (AI) tools solely to assist with language refinement, grammar correction, and the improvement of manuscript readability. All research ideas, legal analyses, interpretations, arguments, and scholarly content presented in this article are the original work and sole responsibility of the authors. The authors carefully reviewed and verified all AI-assisted outputs prior to submission to ensure their accuracy, integrity, and compliance with academic standards.

Conflict of Interest

The authors declare that there are no conflicts of interest, whether financial, professional, institutional, or personal, that could have influenced the conduct, findings, interpretation, or publication of this research. The authors further affirm that the study was carried out independently and objectively.

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