

Pendayagunaan pidana bersyarat sebagai upaya memasyarakatkan pelaku tindak pidana di luar lembaga

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Abstrak

There are three principal problems in criminal law; which are offence, guilt and punishment. Especially for punishment, there is currently a universal problem; that is dissatisfaction in society on imprisonment sentence. This is because imprisonment sentence has been considered ineffective on its primary objectives and has stimulated negative impact on the offender and his family. Because of that The United Nation as the world institution in 1960 on The Second UN Congress on the Prevention of Crime and the Treatment of Offenders has recommended its member to eliminate the imposing of imprisonment sentence, particularly on short range imprisonment sentence, and to search for non-institutional sentence. Since then many countries has made improvements on their criminal law, reducing the imposing of imprisonment sentence and substitute it with other non-institutional alternative sanctions. One of these is the conditional sentence, which the Indonesian Penal Code has stipulated in its article 14 a through f. But the existing statistics show that the imposing of conditional sentence is still low, which is not more than 15 % of all criminal sanctions imposed in criminal cases a year.

The objectives of this tesis are to try to find out the reasons why the imposing of conditional sentence is low in our country and to search for possible efforts that can be done to improve the imposing of conditional sentence in the future.

The results of the field research show that there are two reasons for the low imposing of conditional sentence; (1) the implementation of criminal threat in regulations of our criminal law is more openly to exercise imprisonment sentence compare to its alternatives, (2) there is a negative persuasion in our society on conditional sentence; that they not consider it as a punishment because they perceive that it does not have misery consequences to the of-fender. In addition to that the-practice of conditional sentence itself so far has not reached its objectives because of several obstacles in the regulation and order itself as well as in the facilities, and the ways of controlling the offenders. In the framework to improve and develop the criminal law by arranging a new concept of Indonesian Penal Code, based on the idea to minimize the imposing of imprisonment sentence, which utilizes the imposing of conditional sentence as a non-institutional alternative sanction, some efforts that can be done to realize it are to make a standard conduct for the use of conditional sentences as a comprehensive guidance, to pass regulation that will allow the imposing of conditional sentence imperatively on certain situation, to improve facilities that support the practising of conditional sentences including improving of controlling the of-fenders.