

Metamorphosis of Justice and Benefit: a Critical Evaluation of the Application of the Hedonic Calculus Principle in the Standardisation of Punishments in the 2023 Criminal Code

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Abstract

*Criminal law reform through the 2023 Criminal Code shows a paradigm shift in criminal punishment in Indonesia from a retributive approach to a more humanistic and benefit-oriented approach. This study aims to evaluate the application of the principle of *hedonic calculus* as a utilitarian instrument in the standardization of punishment, namely assessing legal policies based on their ability to maximize happiness and minimize suffering through indicators such as intensity, duration, certainty, and extent of impact (Bentham, 1789). Using descriptive methods and a qualitative approach through literature studies and analysis of the 2023 Criminal Code, the results of the study show that sentencing standards have accommodated a utility orientation through alternative punishments, an emphasis on offender rehabilitation, and attention to the social impact of sentencing. This approach has the potential to improve crime prevention and social reintegration, but it still faces challenges in maintaining a balance between social utility, the protection of individual rights, and a sense of justice for victims. Therefore, its implementation must be carried out proportionally while upholding human rights and substantive justice.*

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1. INTRODUCTION

The reform of national criminal law through the enactment of the Criminal Code (KUHP) 2023 marks a new chapter in Indonesia's criminal justice system. This reform not only aims to replace This reform aims not only to replace the colonial legacy, but also to steer criminal law towards a more humanistic, just and socially beneficial paradigm. In this context, there has been debate about how the sentencing standards in the 2023 Criminal Code reflect the balance between retributive justice and utilitarian benefits. One relevant theoretical approach to evaluating this benefit orientation is the principle of hedonic calculus from the philosophy of utilitarianism, which assesses actions based on the extent to which they produce the greatest happiness for the greatest number of people (Bentham, 1789).

The concept of hedonic calculus was introduced by Jeremy Bentham as a rational method for measuring the pleasure and pain generated by a policy or legal action. Bentham argued that a legal rule is considered good if it maximises collective happiness and minimises social suffering (Bentham, 1789). In the context of criminal punishment, this principle directs lawmakers to design criminal sanctions that are not merely retributive, but

also provide preventive, rehabilitative, and restorative benefits to society. Thus, an evaluation of the 2023 Criminal Code's sentencing standards is important to assess whether Indonesian criminal law has moved from a retributive paradigm to a utilitarian paradigm oriented towards social benefit.

Historically, the penal system in Indonesia has tended to be rooted in a retributive approach, namely punishment as a form of retaliation against perpetrators of crime. This approach places the moral fault of the perpetrator as the main basis for imposing punishment (Moeljatno, 2008). However, developments in modern legal theory show that the purpose of punishment is not limited to retribution, but also includes crime prevention, protection of society, and rehabilitation of perpetrators (Muladi & Barda Nawawi Arief, 2010). The 2023 Criminal Code reflects this shift through the introduction of more comprehensive objectives of punishment, including restoring balance, resolving conflicts, and reintegrating offenders into society. This shift indicates a transformation of values from formal justice to a more substantive justice of utility.

This transformation can be understood as a metamorphosis of justice and utility in Indonesian criminal law. Justice is no longer interpreted solely as the correspondence between actions and punishment, but also as the ability of the law to create social welfare and social harmony (Rawls, 1971). Within the framework of utilitarianism, justice is measured based on the outcome produced by a legal policy, not only based on formal procedures or norms. Therefore, the standards of punishment in the 2023 Criminal Code need to be critically analysed to see the extent to which they reflect utilitarian calculations in determining the type and severity of criminal sanctions.

The principle of hedonic calculus provides a systematic analytical framework for assessing the effectiveness of punishment. Bentham proposed several indicators in the calculation of happiness, such as intensity, duration, certainty, proximity, fertility, purity, and the extent of the impact of an action (Bentham, 1789). When applied in the context of punishment, these indicators can be used to assess whether a criminal sanction truly provides greater social benefits than the suffering it causes. For example, long-term imprisonment may have a deterrent effect, but it can also have negative impacts such as prison overcrowding and the social marginalisation of prisoners (Garland, 2001). Therefore, the utilitarian approach requires a balance between the preventive effects and the social impacts of punishment.

The 2023 Criminal Code introduces various alternatives to imprisonment, such as community service, probation, and proportional fines, which demonstrate efforts to reduce the negative impact of imprisonment and improve the effectiveness of offender rehabilitation. This approach is in line with the utilitarian principle that emphasises efficiency and social benefit in the imposition of sanctions (Duff, 2001). However, the application of the hedonic calculus principle in sentencing standards is not without criticism. One of the main criticisms of utilitarianism is the potential for the neglect of individual rights in favour of the interests of the majority (Nozick, 1974). In the context of criminal law, this could pose the risk that sentencing that is considered beneficial to society actually violates the principles of individual justice and human rights.

Furthermore, the application of happiness calculations in criminal law faces methodological challenges. Happiness and suffering are subjective concepts that are difficult to measure quantitatively (Sen, 1999). Therefore, sentencing standards based on the principle of utility require clear and measurable indicators so as not to cause legal uncertainty. In the Indonesian context, social and cultural diversity also influences public perceptions of justice and utility, so the application of utilitarian principles must take into account local values and the principles of social justice contained in Pancasila (Asshiddiqie, 2015).

A critical evaluation of the application of the hedonic calculus principle in the standardisation of penalties in the 2023 Criminal Code is important to ensure that criminal law reform truly results in a fair, effective, and welfare-oriented penal system. This study is not only academically relevant, but also has practical implications for policymakers, law enforcement officials, and the wider community. By understanding how the principle of utility is integrated into criminal law, it is hoped that the Indonesian criminal justice system can achieve a balance between protecting society, respecting individual rights, and achieving social justice.

Ultimately, the metamorphosis of utilitarian justice in the 2023 Criminal Code reflects Indonesia's efforts to build a criminal justice system that is responsive to social dynamics and human values. The utilitarian approach through the principle of hedonic calculus offers a useful perspective in evaluating the effectiveness of punishment, but its application must remain subject to criticism so as not to sacrifice the principles of substantive justice and human rights. Therefore, this study seeks to examine in depth how the sentencing standards in the 2023 Criminal Code reflect the transformation of utilitarian justice, and to what extent the principle of hedonic calculus can become a normative basis in Indonesia's modern and just sentencing system.

2. METHOD

This study uses a descriptive method with a qualitative approach to gain an in-depth understanding of the application of the hedonic calculus principle in the standardisation of penalties in the 2023 Criminal Code and its relationship with utilitarian justice. A qualitative approach was chosen because it is able to describe legal norms, philosophical values, and the objectives of sentencing in a contextual manner without manipulation, with the researcher as the main instrument in the analysis process (Creswell, 2014).

The data used consists of textual information obtained through literature studies and analysis of legal documents, including the 2023 Criminal Code, utilitarianism theory literature, and the doctrine of sentencing objectives (Bentham, 1789). The descriptive method was used to systematically describe the provisions of punishment and evaluate their compatibility with the principles of utility and social justice (Muladi & Barda Nawawi Arief, 2010).

Through this method, the study aims to provide a concise but comprehensive overview of the relevance of the hedonic calculus principle in realising a proportional, humanistic penal system oriented towards public welfare.

3. RESULTS AND DISCUSSION

RESULTS

Criminal law reform through the 2023 Criminal Code marks a paradigm shift in criminal punishment in Indonesia from a retributive approach to a more humanistic and socially beneficial approach. This shift not only reflects the need for national legal reform, but also demonstrates efforts to align the criminal punishment system with substantive justice and public welfare values. In this context, the principle of hedonic calculus introduced by Jeremy Bentham provides a relevant theoretical framework for evaluating whether the applied sentencing standards are capable of producing greater social benefits than the suffering they cause (Bentham, 1789).

The principle of hedonic calculus departs from the assumption that laws must be designed to maximise happiness and minimise suffering. Bentham proposed that legal policies can be evaluated through indicators such as the intensity, duration, certainty, proximity in time, fertility, purity, and breadth of impact of an action. In the context of

sentencing, these indicators can be used to assess whether the punishment imposed truly has a deterrent effect, protects society, and encourages the rehabilitation of offenders, or whether it actually causes broader negative impacts such as prison overcrowding, social stigmatisation, and recidivism.

The 2023 Criminal Code introduces more comprehensive sentencing objectives, including crime prevention, community protection, conflict resolution, restoration of balance, and social reintegration of offenders. These objectives reflect a utilitarian orientation in line with the principles of utilitarianism. Thus, evaluating the punishment standards in the 2023 Criminal Code through the lens of hedonic calculus is important to assess the extent to which Indonesia's criminal law reform has accommodated the balance between justice, utility, and the protection of human rights.

On the other hand, the application of utilitarian principles in criminal law is not without criticism. An approach that places too much emphasis on collective benefit has the potential to neglect individual rights and the principle of procedural justice (Rawls, 1971). Therefore, analysis of hedonic calculus in sentencing standards must consider the balance between the interests of society and the protection of the rights of perpetrators and victims. In the context of Indonesia, which is based on Pancasila, justice is not only measured by social benefits, but also by respect for human values and social justice.

Against this background, this discussion aims to examine in depth how the principle of hedonic calculus is reflected in the 2023 Criminal Code sentencing standards, and how its application can be evaluated based on findings from literature studies and the views of criminal law experts.

DISCUSSION

Based on literature studies and analysis of modern criminal law doctrine, the application of the hedonic calculus principle in standardising punishment in the 2023 Criminal Code can be seen from several main aspects, namely proportionality of punishment, effectiveness of prevention, rehabilitation of perpetrators, and the social impact of punishment. Criminal law experts argue that effective sentencing must consider the long-term benefits to society, not just the suffering imposed on the perpetrator (Muladi & Barda Nawawi Arief, 2010).

First, from the aspect of proportionality of punishment, a literature study shows that the 2023 Criminal Code attempts to establish more measurable and flexible sentencing guidelines. This approach is in line with the indicators of intensity and duration in hedonic calculus, which require that punishment does not cause excessive suffering compared to the benefits it produces. Several criminal law experts emphasise that short-term imprisonment is often ineffective in providing a deterrent effect, and may even increase the risk of recidivism because offenders are exposed to a criminal environment in correctional institutions. Therefore, the application of alternative penalties such as community service and supervision is considered more proportional and beneficial to society.

Secondly, from the perspective of prevention effectiveness, literature shows that certainty of punishment has a greater effect on crime prevention than the severity of the punishment itself. From a hedonic calculus perspective, indicators of certainty and proximity in time are important factors in creating a deterrent effect. Experts argue that a consistent and transparent sentencing system can increase public trust in the law and encourage compliance with social norms. Thus, sentencing reforms in the 2023 Criminal Code that emphasise certainty and proportionality of punishment can be considered in line with utilitarian principles.

Third, from the aspect of rehabilitation and social reintegration, literature studies show that the modern approach to punishment views offenders as individuals who can be reformed, not merely as objects of retribution. This approach is in line with the indicators

of fertility and purity in hedonic calculus, which assess whether an action produces continued benefits without causing additional suffering. Mentoring programmes, job training, and alternative punishments are considered capable of increasing the chances of social reintegration of offenders and reducing the social burden caused by unemployment and marginalisation. Academics consider that this approach reflects the metamorphosis of utilitarian justice in Indonesian criminal law.

Fourth, from the perspective of the social impact of punishment, literature shows that imprisonment has a broad impact not only on the perpetrator, but also on their family and community. Overcrowding in correctional institutions, the cost of maintaining prisoners, and the social stigma attached to ex-convicts are examples of social suffering that must be taken into account in utilitarian calculations. Within the framework of hedonic calculus, broad impact indicators require policymakers to consider the broader social consequences of a punishment. Therefore, policies that reduce the use of imprisonment and expand alternative punishments are considered more in line with the principle of utility.

However, the results of the literature review also show concerns that a utilitarian approach may neglect the sense of justice of the victim. Some experts emphasise that sentencing that focuses too much on the rehabilitation of perpetrators has the potential to reduce victims' satisfaction with the judicial process. In this context, the restorative justice approach is a solution that integrates the interests of perpetrators, victims and society. This approach is considered capable of increasing social utility while maintaining a sense of justice for all parties.

In addition, experts also highlight the challenges in measuring happiness and suffering objectively. Happiness is subjective and influenced by cultural values, social conditions, and individual perceptions. Therefore, the application of hedonic calculus in sentencing requires clear and contextual indicators so as not to cause legal uncertainty. In the pluralistic context of Indonesia, public perceptions of justice and utility may vary, so sentencing policies must take into account local values and principles of social justice.

Overall, the results of the literature review show that the standardisation of sentencing in the 2023 Criminal Code reflects an effort to integrate the principles of hedonic calculus into the Indonesian criminal justice system. The shift towards alternative penalties, the emphasis on rehabilitation, and attention to the social impact of sentencing indicate a more utilitarian and humanistic orientation. However, the application of this principle must remain subject to criticism so as not to sacrifice individual rights and the sense of justice of victims. Therefore, the balance between social benefit and substantive justice is key to realising an effective and just sentencing system.

Thus, this discussion shows that the principle of hedonic calculus can be an important evaluative framework in assessing the effectiveness of the 2023 Criminal Code's sentencing standards. Through an approach that comprehensively considers benefits and suffering, the sentencing system is expected to achieve the main objectives of criminal law, namely protecting society, restoring social balance, and realising justice oriented towards mutual welfare.

4. CONCLUSION

The application of the hedonic calculus principle in the standardisation of penalties in the 2023 Criminal Code shows a shift in the Indonesian criminal law paradigm from a retributive approach to a more humanistic and welfare-oriented approach to justice. This principle emphasises that sentencing must be assessed based on its ability to maximise social benefits and minimise suffering, which is reflected in the objectives of the 2023 Criminal Code, such as crime prevention, community protection, restoration of balance, and social reintegration of offenders. The introduction of alternative punishments such as community

service, supervision, and proportional fines demonstrates efforts to achieve more proportional and beneficial punishment, while reducing the negative impact of imprisonment. However, this utilitarian approach still faces challenges, particularly in maintaining a balance between social benefit, the protection of individual rights, and the sense of justice of victims. Thus, the principle of hedonic calculus can be a relevant evaluative framework in assessing the effectiveness of the 2023 Criminal Code, as long as its application continues to consider substantive justice, human rights, and social justice values in the Indonesian legal system.

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