

## Balancing Justice: Reforming Indonesia's Legal System Through Fines as a State Debt

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**ABSTRACT:** The recent adjustments in legal provisions outside the Criminal Code aim to align criminal fines with the current rupiah rate. However, this resulted in fines appearing as administrative formalities, as the imposed amounts seem irrational in comparison to imprisonment as a substitute. Court decisions dictate that failure to pay fines leads to the confiscation and auctioning of the defendant's assets. If the defendant lacks sufficient assets, imprisonment for the remaining unpaid fine is imposed. These decisions perceive fines as a debt to the state. This article explores two key discussions: (1) the concept of criminal fines as a debt to the state in Indonesian criminal law reform and (2) the implementation of criminal fines as a state debt in the broader criminal law reform in Indonesia. The research highlights the potential of criminal fines serving as Non-Tax State Revenue (PNBP), contributing to the state treasury for developmental purposes. Viewing criminal fines as a state debt presents an opportunity for a more civilized and socially just criminal justice system, aligning with Pancasila values. Successful implementation involves clear regulations defining fines as a state debt, drawing on Legal Positivism theory, and specifying technical regulations for guarantees and enforcement mechanisms.

**KEYWORDS:** Criminal Code, Debt, Fines, Indonesia Legal Reformation

### I. INTRODUCTION

Based on the Indonesian criminal system, fines are one of the main types of criminal penalties. Fines are one of the main types of criminal penalties that are primarily aimed at the assets or possessions of a perpetrator for violating the provisions of the applicable Criminal Law.[1] Fines are regulated in the Criminal Code or *Kitab Undang-Undang Hukum Pidana* (KUHP) which seeks to punish those who violate these provisions by requiring them to pay a certain amount of money or property so that the violators themselves suffer losses and public order is restored.[2]

The penalties in the new Criminal Code, namely in Law Number 1 of 2023 concerning the Criminal Code, regulate the penalties consisting of: Main Criminal, Additional Criminal and Special Criminal for certain criminal acts specified in the Law. (Article 64 letters a, b and c). Fines are included in the main crimes listed in Article 65 paragraph (1) letter d. Considering that the rupiah value in the Criminal Code no longer corresponds to the current rupiah exchange rate, the Supreme Court issued "Supreme Court Regulation No. 2 of 2012 concerning Adjustments to the Limits of Light Crimes and the Amount of Fines in the Criminal Code)". This regulation aims to make it easier for law enforcers, especially judges, to provide justice. In accordance with Article 30 paragraph (2) of the Criminal Code, if the fine is not paid, it is replaced by imprisonment for a minimum of one day and a maximum of six months. However, the current regulations on fines, which include high minimum amounts and imprisonment as a substitute for non-payment, make fines more of an administrative formality rather than an effective penalty. In practice, the fines imposed, often reaching hundreds of millions or even billions of rupiah, are unrealistic and disproportionate to the substitute prison sentences. For example, a convict fined Rp 800,000,000 or eight hundred million rupiah faces only six months of imprisonment if unable to pay.[3] Logically, many would prefer serving the prison term rather than paying such an excessive fine, highlighting the imbalance in the system.

As a result, fines fail to serve their primary purpose as state revenue and instead become a burden, as unpaid fines are often converted into imprisonment, increasing incarceration costs. Ideally, fines should be an efficient punishment mechanism that benefits the state, but the existing system is ineffective in enforcing them. Recognizing fines as state debt offers a more practical solution by shifting enforcement from criminal to civil mechanisms, allowing the state to recover fines through asset seizure or auction. This shift ensures accountability without adding financial strain on the state. This issue reflects a gap between *das Sein* (the reality where fines are ineffective and burdensome) and *das Sollen* (the ideal where fines function as a financial recovery tool for the state). Based on the background description, the discussion of the article is: (1) the concept of criminal fines as a debt to

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the state in the reform of Indonesian criminal law (2) Implementation of fines as a debt to the state in reforming criminal law in Indonesia.

## II. METHODOLOGY

This research employs a normative/doctrinal method with a statutory, case, conceptual, and comparative approach. The statutory approach focuses on legal products, while the case approach examines ongoing or decided legal cases.[4] The conceptual approach relies on established legal doctrines, especially when specific regulations are absent. The comparative approach analyzes laws across different countries.[5] Data sources include secondary data obtained through literature studies in both print and digital formats.

## III. RESULT AND DISCUSSION

### A. Reforming of Indonesia's Criminal Law: The Concept of Fines as a Debt to the State

In Article 2 of Law Number 12 of 2011 concerning the Formation of Legislation, it is explicitly stated that Pancasila is the source of all sources of state law. The explanation of the law shows that the Preamble establishes Pancasila as the source of all sources of state law. The paragraph of the 1945 Constitution which states "Belief in One Almighty God, Just and Civilized Humanity, Indonesian Unity, Democracy led by wisdom in deliberation/representation, and Social Justice for all Indonesian people". Placing Pancasila as the basis and ideology of the state, as well as the intellectual foundation of the state, so that no part of the Legislation may conflict with the principles of Pancasila. Clearly, social life cannot be separated from the legal principles that govern the socialization process itself, in fact, legal practice applies to everyone equally. Therefore, if there is a violation of the legal principles that exist and are used in society, whether in the form of a criminal act or violation, criminal sanctions will be applied.

The author's opinion on the issue of punishment cannot be considered in isolation. However, it must be understood holistically from a criminal law perspective, starting with the disclosure of legal information regarding prohibited acts that must not be carried out (criminal acts or violations) and ending with unlawful coercion. Alternative punishment is one option. Apart from being a substitute for confinement, it should be seen as a way of implementing meaningful consequences, not just an alternative sanction that, if not paid, can be replaced by longer coaching sessions in a correctional facility. Bearing in mind that the purpose of punishment is to cause consequences that restore the values of knowledge about the rights and obligations of national and state life. The number of inmates must be reduced so that correctional institutions do not exceed capacity and the training of inmates can run more effectively.

In the proposed Criminal Code, fines are recognized as sanctions. The use of a categorization approach is designed to facilitate changes to laws involving penalty measures based on economic development statistics. This crime is contained in Articles 80 to Article 85 of the 2013 the Draft Criminal Code or *Rancangan Kitab Undang-Undang Hukum Pidana* (RKUHP). Article 80 of the Draft Criminal Code states that:

- a. "A fine in the form of a sum of money must be paid by the convict based on a court decision."
- b. "If no specific minimum is specified, the minimum penalty will be Rp. 100,000.00 (one hundred thousand rupiah)."
- c. "The most common fines are determined based on categories:
  - 1) "Category I Rp 6,000,000.00 (six million rupiah)";
  - 2) "Category II Rp 30,000,000.00 (thirty million rupiah)";
  - 3) "Category III Rp 120,000,000.00 (one hundred and twenty million rupiah)";
  - 4) "Category IV Rp 300,000,000.00 (three hundred million rupiah)";
  - 5) "Category V Rp 1,200,000,000.00 (one billion two hundred million rupiah)";
  - 6) "Category VI Rp 12,000,000,000.00 (twelve billion rupiah)".

The categorical formulation aims to provide a clear pattern for the maximum penalties indicated for various criminal offenses in the case of economic and monetary fluctuations.

- d. "Corporate fines are imposed more heavily than on individuals, considering that the main penalty that can be imposed on corporations is only fines."
- e. "The fine for corporations is punishable by a maximum imprisonment of 7 (seven) years to 15 (fifteen) years, the fine is in category V and the minimum is a category IV fine, while the death penalty, life imprisonment or a maximum penalty of 20 (two) twenty years of category VI crime".

Therefore, the author believes that the basic concept of alternatives to incarceration, in this case criminal law as a state debt, has a great opportunity to become a source of criminal law reform in Indonesia.

To make Indonesia's fine mechanism clearer, next is a comparison with the Dutch criminal justice system. In the Netherlands, alternative sanctions such as unpaid work and restraining orders reflect a system geared toward restorative justice and proportionality. In contrast, Indonesia emphasizes fines as a state debt, with strict enforcement through asset seizure and substitute

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imprisonment. This comparison highlights the differences in how punishment, deterrence, and rehabilitation are balanced, providing valuable insights for policymakers seeking to reform Indonesia's criminal justice framework.

**Table 1. Comparison of Fine Mechanism between Indonesia and the Dutch (Netherlands)**

| Aspects                            | Indonesia                                                                                                                                                                                                                                                                                                                                                                                                              | Dutch (Netherlands)                                                                                                                                                                                                                                                                                                                               |
|------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Alternative Sanctions              | <ol style="list-style-type: none"> <li>1. There is no explicit alternative mechanism (such as community service or unpaid work) to substitute imprisonment.</li> <li>2. The system focuses on fines as a “state debt” with imprisonment imposed as a substitute if the fine is not paid.</li> </ol>                                                                                                                    | <ol style="list-style-type: none"> <li>1. Alternative sanctions include performing unpaid work (e.g., cleaning or removing graffiti) for minor offences.</li> <li>2. In addition to the alternative sanction, the court also imposes a default custodial sentence if the obligations under the alternative sanction are not fulfilled.</li> </ol> |
| Fines                              | <ol style="list-style-type: none"> <li>1. Fines are a main penalty regulated in the Criminal Code and have been reformed to align with the current rupiah value.</li> <li>2. Fines are categorized (Categories I–VI) with amounts that are often very high and considered a “debt to the state.”</li> <li>3. Failure to pay the fine results in asset seizure and auction, or a substitute prison sentence.</li> </ol> | <p>Fines can be imposed for any offence.</p> <p>The fine amount is determined by the court or public prosecutor based on the offence category, and a fines database is maintained by the Central Fines Collection Agency (CJIB)</p>                                                                                                               |
| Asset Seizure/Confiscation         | <ol style="list-style-type: none"> <li>1. If a fine is not paid within the set period, the offender's assets are seized and auctioned.</li> <li>2. This mechanism is intended to ensure that fines are met without financially burdening the state.</li> </ol>                                                                                                                                                         | <ol style="list-style-type: none"> <li>1. In addition to fines, authorities may confiscate assets (e.g., cash, vehicles, property) that represent the proceeds of crime.</li> <li>2. This practice is regulated under legislation popularly known as “Pluk-ze” (Squeeze 'em) to increase the recovery of criminal assets.</li> </ol>              |
| Driving Disqualification           | This aspect is not explicitly mentioned in the manuscript.                                                                                                                                                                                                                                                                                                                                                             | The police may confiscate a driving license for offences such as speeding or driving under the influence, with the public prosecutor determining when it can be returned.                                                                                                                                                                         |
| Restraining Orders                 | No specific mechanism for restraining orders related to fines or alternative sanctions is described.                                                                                                                                                                                                                                                                                                                   | Restraining orders can be imposed for serious antisocial behavior (e.g., banning a football hooligan from entering a stadium or preventing an abuser from contacting a partner in domestic violence cases).                                                                                                                                       |
| Sanctions for Persistent Offenders | The manuscript does not explicitly describe mechanisms for persistent offenders in the context of fines.                                                                                                                                                                                                                                                                                                               | Courts may impose tougher measures (e.g., an ISD order) on persistent offenders – for instance, offenders with at least ten official reports in five years may face a two-year placement in an institution for persistent offenders.                                                                                                              |

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|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Enforcement Mechanisms | <ol style="list-style-type: none"> <li>1. Fines are viewed as a “state debt” that functions not only as punishment but also as a source of state revenue (Non-Tax State Revenue).</li> <li>2. Enforcement involves harmonizing the Criminal Code with tax collection laws, with the Public Prosecutor implementing court decisions (asset seizure or substitute imprisonment for non-payment).</li> </ol> | <ol style="list-style-type: none"> <li>1. Enforcement combines alternative sanctions, fines, asset seizure, and restraining orders to ensure compliance, deter future offences, and promote rehabilitation.</li> <li>2. Agencies such as the CJIB and other law enforcement bodies monitor and enforce these sanctions.</li> </ol> |
|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

The table reveals that the Indonesian system concentrates on using fines as a tool for state revenue recovery, where monetary penalties are enforced through asset seizure and substitute imprisonment, reflecting a more punitive model. This approach contrasts with the Dutch system, which employs alternative sanctions such as community service and restraining orders to achieve restorative and rehabilitative outcomes. The analysis correlates with the themes in *Balancing Justice: Reforming Indonesia's Legal System through Fines as a State Debt* by highlighting the need for reform in Indonesia's criminal justice framework. The manuscript argues for a balanced approach where fines, rather than being solely a punitive measure, could be integrated into a broader system that alleviates prison overcrowding and promotes equitable enforcement without sacrificing the state's interest in financial accountability.

### B. Implementation of Fines as a Debt to the State in Reforming Criminal Law in Indonesia

The Procedural Criminal Code or *Kitab Undang-Undang Hukum Acara Pidana* (KUHP) and Law no. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia gives strict powers to the Prosecutor's Office as the executor of court decisions. Execution by the Prosecutor, based on Article 30 jo. Article 103 of the Criminal Code replaces fines with imprisonment if they are not paid.[6] However, the execution of such a sentence is confusing because according to the Criminal Code Article 13 paragraph (5) and its explanation, fines are still collected from the perpetrator by the tax officer (fiscus). Therefore, the basic or general concept that must be addressed in drafting the "criminal provisions" article is the principle of internal and external harmonization of system units. Internal harmonization refers to the synchronization or alignment of all certain laws and regulations. Outward harmonization shows synchronization with the basic norms in the Criminal Code which remain the foundation of the entire existing material criminal law system (substantive punishment system).[7]

With the power of the Public Prosecutor as the implementer of the judge's decision, if the criminal (taxpayer) fails to pay the fine, it will be replaced with further imprisonment, which requires the convict to serve the sentence in a Penitentiary or State Land Home. However, if a prison sentence is not specifically mentioned in the indictment or court decision, the Public Prosecutor cannot automatically impose it. This is possible because the Public Prosecutor and Judge, taking into account the defendant's sense of justice regarding the application of Article 13 paragraph (5) of the Criminal Code and its explanation, do not include secondary criminal acts in the form of imprisonment in lieu of criminal penalties. Below is how a decision act as an “obligation” or “guarantee” to pay fines:

**Table 2. Decision as Obligation through the Implementation of Fines**

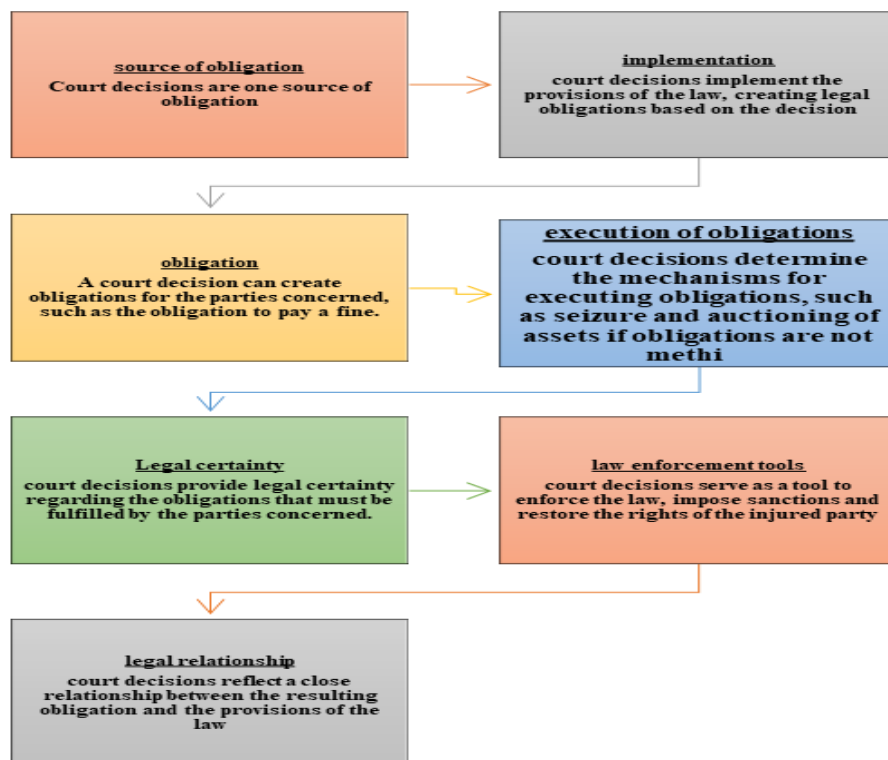
| Decision Number                                                                    | Fines as Debt                                  | Fines as obligation                                                                           | Decisions' stance as obligation                                                                                    |
|------------------------------------------------------------------------------------|------------------------------------------------|-----------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| Bale Bandung District Court Decision No. 96/Pid.Sus/2019/PN.Blb[8]                 | A fine of Rp37,631,183,330.00 must be paid     | If not paid within 1 month, the property will be confiscated and auctioned;                   | imprisonment for 6 months if insufficient Alternative sentence of 5 years imprisonment; court costs of Rp10,000.00 |
| Decision of the North Jakarta District Court Number 285/Pid.Sus/2021/PN Jkt.Utr[9] | A fine of Rp6,225,081,552,- which must be paid | f not paid within 1 month, the property will be confiscated and auctioned; imprisonment for 3 | Imprisonment for 2 years and 2 months; court costs of Rp10,000.00                                                  |

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|-------------------------------------------------------------------------------------|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                     |                                              | months if not sufficient                                                                                                 |                                                                                                                                                                       |
| Decision of the North Jakarta District Court number 298/Pid.Sus/2021/PN Jkt.Utr[10] | A fine of Rp. 30,063,089,333.00 must be paid | If not paid within 1 month, the property is confiscated and auctioned; substitute imprisonment if this is not sufficient | 4 years imprisonment; court costs Rp 10,000.00                                                                                                                        |
| Decision of the DKI Jakarta High Court number 86/PID.SUS/2021/PT DKI[11]            | A fine of Rp. 1,122,120,000 must be paid     | If not paid within 1 month, property will be confiscated and auctioned; 6 months imprisonment if insufficient            | This fine considers criminal acts as a form of debt that must be paid to the state, and failure to fulfill this obligation will result in further legal consequences. |

The table highlights tax crime cases in Indonesia, where fines range from billions to tens of billions of rupiah, reflecting the government's strict stance on tax violations. Fines serve both as punishment and state loss recovery, often accompanied by prison sentences to emphasize the severity of offenses. Unpaid fines lead to asset seizure, auction, and possible additional imprisonment, ensuring a strong deterrent effect. This approach upholds social justice, public protection, and legal compliance. Economically, high fines reduce incentives for future violations by imposing heavy costs. Overall, fines reinforce justice, safeguard public interests, and drive legal development.

### Illustration of the Court's Decision Rationale as Fine Obligation



Fines as a debt to the state arise from statutory provisions due to unlawful acts, with execution only postponed by time (Article 1268 Civil Code). Unlike conditional obligations, they do not depend on uncertain events. Obligations can stem from agreements, unlawful acts (*onrechtmatige daad*), or voluntary representation (Articles 1353, 1365 Civil Code). Court rulings establish statutory duties, such as tax violation fines (Article 39A jo. 43(1) Law 28/2007). Payment enforcement includes asset seizure, auction, or imprisonment. Criminal fines ensure justice, deterrence, and state loss recovery, aligning with restorative justice and public interest protection. They function as a comprehensive legal tool for law enforcement, social justice, and economic efficiency.

### CONCLUSIONS

The reform of Indonesia's criminal law through the recognition of fines as a state debt aligns with the principles of Pancasila and the 1945 Constitution, ensuring that legal sanctions serve both justice and societal interests. Criminal punishment must be understood holistically, balancing deterrence, rehabilitation, and efficiency. The proposed Criminal Code categorizes fines to account for economic fluctuations, providing a structured approach to financial penalties. Additionally, corporate fines are emphasized as the primary sanction, reinforcing accountability. Recognizing fines as a state debt offers a viable alternative to incarceration, reducing prison overcrowding while maintaining legal enforcement. This shift presents a significant opportunity for criminal law reform, ensuring a more effective and economically sustainable justice system in Indonesia.

The implementation of fines as a debt to the state in Indonesia's criminal law reform aligns with legal principles and enhances enforcement mechanisms. The Prosecutor's Office, as the executor of court decisions, has the authority to collect fines or replace them with imprisonment if unpaid. However, inconsistencies in execution arise due to conflicting regulations between the Criminal Code and tax collection laws. The harmonization of legal provisions is crucial to ensure effective enforcement. Court decisions treat fines as obligations, with penalties including asset seizure, auction, and imprisonment for non-payment. This strict approach reinforces deterrence, social justice, and public interest protection. Recognizing fines as a state debt enables a more systematic enforcement mechanism, shifting execution from criminal to civil procedures. This reform not only upholds legal compliance but also ensures economic efficiency, reduces prison overcrowding, and strengthens law enforcement in Indonesia.

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