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A Sentencing Effectiveness Assessment Form as a Normative Instrument for Supervisory-and-Observatory Judges under Indonesia's 2025 Criminal Procedural Law

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ABSTRACT: Criminal Procedural Law 2025 limits the role of supervisory-and-observatory judge to 'researcher', when it's supposed to analyze trial proceeding's effectiveness in sentencing. Research question based on existing problem includes how could there be absence of evaluative mechanism for sentencing effectiveness in the 2025 Criminal Procedural Law and how does supervisory-and-observatory judge may suggest effective sentencing with sentencing effectiveness assessment form. The novelty of this research is its finding of recognizing the method of supervisory-and-observatory judge in improving effective sentencing based on criminal procedural law 2025 through sentencing effectiveness assessment form that contains realistic practical report that may be considered and used as decision consideration of trial judges. Previous research such as Putra's research (2024) that concludes sentencing must focuses on justice and obedience to God, but it has not discussed about the existence of Criminal Procedural Law 2025. As normative research, this research studies normative problem of supervisory-and-observatory judges to remedy improper sentencing for the future by applying statute approach towards Criminal Procedural Law 2025 and conceptual approach of legal expediency and theory of prisonization. Result showed that supervisory-and-observatory judges may express result of redundant sentencing and the use assessment form to remedy improper sentencing. The conclusion of this research is that the role of supervisory-and-observatory judge must be applied optimally with direct consequence to penitentiary to optimize crime decrease. Implication of the research would be to stress active role of supervisory-and-observatory judge to suggest effective sentencing. The research novelty is sentencing effectiveness assessment form as a normative model.

Keywords: Supervisory-and-Observatory Judge, Criminal Procedural Law 2025, Effective Sentencing.

INTRODUCTION

This paper is meant to analyse the background of the study based on the legislation of 2025's criminal procedural law. Legislated as Act 20 of 2025, Criminal Procedural Law raised a lot of issue rather than solving previous criminal procedural law such as human right violation to legal vacuum regarding specific criminal procedural law which has not been addressed in the general criminal

procedural law (Triana et al., 2025). Referring to criminal procedural law regarding role of supervisory-and-observatory judges in previous criminal procedural law, supervisory-and-observatory judge act as legal documenter rather than sentencing effectiveness evaluator (Syaepudin, 2022). For instance, Article 353 Criminal Procedural Law 2025 has not still regulated what kind of elements that should be analyzed in the report. Meanwhile, Criminal Procedural Law 2025 has imbued collaborative means between supervisory-and-observatory judges with public prosecutors and penitentiaries, but it is still not enough. The researcher is motivated specifically in conducting research in supervisory-and-observatory judge regulated in Article 353 to 359 Criminal Procedural Law 2025 due to its unique nature of it being administrative researcher rather than being an active role of judge within penitentiary system. This manuscript would contribute in clarifying the role of supervisory-and-observatory judge through the guidance of sentencing effectiveness form and preventing redundant role in supporting the fulfilment of effective sentencing. The obscurity in role of supervisory-and-observatory judges was considered to be unfruitful that may cause result of supervision and observation to be useless and inapplicable (Nababan, 2025). It is important to note that the purpose of sentencing is to prevent and/or repress loss that may be caused by unlawful conduct so that it may not happen (Purnomo & Kusuma, 2025). Sentencing must also consider individualization of punishment to further comprehend that each individual crime has distinct feature that cannot be directly applicable to all crime at once (Konyakhin et al., 2020). The fast pace of development has also influenced effectiveness of the criminal justice system in which previous criminal justice system was more focused on repressive and now shall be more focused on preventive and restorative measures (Purnamawati et al., 2025). Hence, strengthening role of supervisory-and-observatory judges with adding sentencing effectiveness form and collaborative means with other law enforcement would be a fair addition for judges to consider in sentencing.

The motive of the research can be explained in several discussion. Firstly, being that there's a fact that Indonesian General judges would have too much of responsibility which would render their duty of examining cases to be unoptimized (Putra et al., 2025). Secondly, recognizing the importance of supervision and observation of sentence execution would be fruitful if the conduct would be focused on the integration of law enforcements (Kementerian PPN/Bappenas, 2021).

This research is conducted as normative research in which the problems would be analyzed and be given legal solution to be solved (Pakpahan et al., 2024). Statute approach and conceptual approach are deployed to gain proper data and analysis of the problems (Pakpahan & Pakpahan, 2025). Statute approach were used to analyze Criminal Procedural Law 1981 with Criminal Procedural Law 2025 and relate it to legal theory specifically legal expediency and theory of prisonization as conceptual approach to produce an instrument that may guide supervisory-and-observatory judge namely sentencing effectiveness assessment form. The data collection method involving literary study that takes on legal sources such as statutes and legal articles (Pakpahan et al., 2022). The data would then be analyzed through deductive analysis to gain conclusion which would solve the problem (Pakpahan & Pakpahan, 2024).

Legal theories used in this research revolves around legal expediency which argues the benefit and use of law for the society (Chauhan & Arora, 2025) and philosophy of punishment which argues

that punishment is decided upon moral judgment (Maktaen & Pujiyono, 2025), and theory of prisonization that argues prison life adaptation would challenge the inmate to re-enter social life with good behaviour (Subroto & Siahaan, 2025).

The problem of ineffective sentencing is noticed by previous research by Spisy which concluded that there should be addition to prison capacity to prevent overcapacity problem (Spisy et al., 2025). This problem is significant because imprisonment does not effectively prevent or reduce crime, hence the need to reevaluate sentencing especially through the help of judge as supervisory-and-observatory judge.

The problem identified as two research questions namely (1) how does supervisory-and-observatory judge may provide proper sentencing for criminal perpetrator and (2) how does criminal procedural law 2025 may absolve improper sentencing. The complexity of the problem would cover issue of ineffective sentencing and the solution to ineffective sentencing. This issue is limited to role of supervisory-and-observatory judge in providing solution to effective sentencing. The objective of this research is to answer the provision that may be offered of supervisory-and-observatory judge and goal of criminal procedural law 2025 in embracing human right and fulfilling legal certainty, justice, and legal expediency.

METHOD

Research Type

This research deployed research approach of statute approach and conceptual approach (Pakpahan, 2021). Statute approach that was applied is used to analyze regulation such as Criminal Procedural Law 2025. Conceptual approach that was applied is used to analyze theories such as legal expediency theory, philosophy of punishment, and prisonization theory.

Legal Materials

Primary legal materials for this research includes Act 20 of 2025 which will be mentioned as Criminal Procedural Law 2025 and Act 1 of 2023 which will be mentioned as Criminal Code. Secondary legal materials include journal articles and books, such as Kelsen and Hart's law is the limit (Adair-Toteff, 2025) and supervisory-and-observatory judge role theoretical concept by Putra.

Search strategy for this research has applied identification of key concept namely Supervisory-and-observatory judge; criminal procedural law 2025; effective sentencing (MacFarlane et al., 2022). Interpretative technique applied in this research includes teleological interpretation, extensive interpretation, and grammatical interpretation (Pakpahan, 2020). Argumentation framework in this research applied basic arguments (van Berkel & Strasser, 2022) firstly that trial judges sentencing is final and considered reality in trials and secondly that reality of sentence execution is only known

by convict and penitentiaries which concludes that report of supervisory-and-observatory judges may provide better insight for future sentencing.

Instrumentation or Tools

This research used legal instrument such as literary study of Criminal Procedural Law 2025 and books and legal journals with expediency theory, philosophy of punishment, and prisonization theory.

Data Collection Procedures

Normative study does not have a specific data collection procedure, yet some articles and ratio decidendi were used to gain legal basis to provide solution towards legal problems of the research issue.

Data Analysis

This research was conducted with deductive analysis through data gained from primary legal source such as criminal procedural law 2025 and secondary legal sources such as books and legal journals with expediency theory, philosophy of punishment, and prisonization theory. The deductive analysis is based on the legal phenomenon namely overcapacity and ineffective sentencing, then the gained legal theories would explain why the legal phenomenon occurred, and solution from legal theories would be applied to solve legal problem.

The formulation of effectiveness sentencing assessment form is based on legal expediency theory and criminal law theory that implements into norm through Criminal Procedural Law 2025 and Criminal Code which summarized into several elements such as identity, history and attitude of crime, attitude in trial, type of sentencing, type of correctional sentencing, recidivism, and summary of effective sentencing.

RESULT AND DISCUSSION
Deductive analysis uncovered few findings namely:

1. The core finding of this research is role of supervisory-and-observatory judge considered to be a passive role that provide practical input to the betterment of effective sentencing based on literary study of jurist (Nababan, 2025). Normatively, the report that was made by supervisory-and-observatory judges is not legally enforceable for trial judges to read or even consider, hence trial judges tend to ignore these reports. Yet, with the existence of Article 53 and 54 Criminal Procedural Law 2025, trial judges must consider proper condition to sentence defendant which also means to consider and read supervisory-and-observatory judges' report.

2. Derivative finding of this research is legal vacuum can be found in non-existence of clear guidelines or form to provide evaluation of effective or ineffective sentencing which cause redundant sentencing (Pratama & Daviska, 2025) based on practical finding by supervisory-and-observatory judge.

3. Derivative finding of this research is Criminal Procedural Law 2025 allows several types of sentencing that may allow humane sentencing following the objective of Criminal Code that intends to protect human right including the accused's human right (Padang et al., 2024) than imprisonment such as judicial pardon which shall be considered as a type of sentencing as mentioned in sentencing effectiveness assessment form.

Interpretation of Key Findings

The first key finding shows that the role supervisory-and-observatory judge proven to be a passive role that provide practical input to the betterment of effective sentencing. This research interprets this key finding on the ground of philosophy of sentencing and its purpose. To begin, sentencing is a form of criminal undertaking to suppress conduct of crime that proves to be a human right violation and endangers harmony in society (Rachman & Hakim, 2024). The talk of deciding fault, wrong doing, and its consequences really relies on process of proof whether in investigation, indictment, or trial level (Maculan & Gil, 2020). Yet, sentencing ultimately lies on the trial process in which if the trial-proving suffices then sentencing can be declared by the judges. Hence it begs the question what is supervisory-and-observatory judge's role supposed to be in this line-up?

Execution of sentencing is conducted by public prosecutor with the assistance of penitentiary and correctional institution based on the final and binding decision made by judges (Sell & Sznycer, 2023). With finding that there's been a lot of overcapacities around penitentiaries around Indonesia, effective sentencing seems to be as real as it gets. Therefore, there needs to be serious analysis on effective sentencing which needs integrated approach by penitentiary, correctional institution, public prosecutors, and courts (Suastuti, 2024). Article 277 Criminal Procedural Law 1981 had regulated the existence of supervisory-and-observatory judges but it is merely for the purpose formality what with no guidance of it applied to adheres to active trial judges as consideration in deciding upon sentencing.

Having proper report of sentencing supervision and observation made by supervisory-and-observatory judges would be more useful since its result may influence the success of sentencing. Furthermore, the report would become social basis for trial judges to consider the suitability of deciding on imprisonment sentencing and rather consider lighter but effective sentencing like fine or rehabilitation (Gormley et al., 2022). The practical implication of supervisory-and-observatory judges' role is to offer insight upon effective sentencing, yet its legal fact that there has been overcapacity in penitentiaries shows that imprisonment has not been applied for effective sentencing properly. With consideration of proper report of sentencing supervision and observation based on sentencing effective assessment form, sentencing decision in the future may have possibilities of socially realistic impactful decision for society.

Most of supervisory-and-observatory judges' report showed only the execution of the sentencing and the condition of penitentiaries rather than the fulfilment of behavior-correction in penitentiaries (Moroz & Dinisman, 2024). Based on legal articles, it shows the effectiveness of imprisonment has not been fruitful (Zaltina & Nurtjahyo, 2024). Overcapacity penitentiaries cause further negative way of living instead of correcting wrong way of living (Katz, 2024). However, some research also argues that some convicts may be beyond correction that the only way of preventing further mishap is by imprisoning them for longer time in the name of society's safety (Gallagher et al., 2024).

The analysis of perpetrator that may need further imprisonment or even harsher sentencing relies on the judgement of judges (Ubaidullah, 2024). Some perpetrator that may be better person with proper correction through sentencing can also be imposed by judge with wise analysis (Doodoh & Tuwaidan, 2025). These arguments would be true with proper analysis, suggestions, and recommendations from supervisory-and-observatory judge.

Recommendation, analysis, and suggestions from supervisory-and-observatory judge as of now has been amended with Article 353 to 359 Criminal Procedural Law 2025. Article 353 sub-article (4) have enforced judge to collaborate with investigator, advocates, correctional officers, victims, and ministry that handles financial recuperation to ensure proper result from supervision and observation of sentencing. In that sense, some variables are needed to understand effective sentencing, which would refer to the foundation of criminal sentencing, namely Article 53 and 54 of Criminal Code and Article 250 Criminal Procedural Law.

Ever since Criminal Procedural Law 1981 until Criminal Procedural Law 2025, there hasn't been proper guidance or guidelines regarding how to evaluate whether a sentence can be considered as effective or ineffective. This research is meant to provide suggestion regarding guidance for assessing whether sentencing may be considered to be effective or ineffective. The instrument to assess the effectivity of sentencing can be formulated into a form as follows.

Table 1. Sentencing Effectiveness Towards Crime Perpetrator Form (made by the researchers)

Sentencing Effectiveness Towards Crime Perpetrator Form		
I. Identity		
1. Register Number		
2. Name		
3. Age		
4. Crime		
5. Date of Sentencing		
II. History and Attitude of Crime		
	Answer	Note
1. Number of committed crime		0x, 1x, 3x or more
2. Recidive		Same crime, different crime

III. Attitude in Trial

	Answer	Note
1. Regret		1= none to 5= deeply regret
2. Cooperative / honest		1 = decline to 5 = very cooperative
3. Sentence Acceptance		1 = Refuse to 5 = fully accept
4. Whole attitude		Cooperative/regret or passive/silence or aggressive/challenging

IV. Type of sentencing

	Answer(Tick (✓))	Note:
Imprisonment		Duration:
Fine		Value:
Probation		Duration:
Social work		Duration / Hour?
Extra sentencing		What type?
Other sentencing		What type?

V. Type of Correctional Sentencing

	Tick (✓)	Note: Participative Level (Active/Passive/Refusal)
Vocational Training		
Formal Education		
Mental Guidance		
Special therapy		
Social Reintegration		
Other correctional		

VI. Recidivism

Indicator	Choice (✓)	Note:
Recidivism	…..	No / Yes
If the answer is yes, how long until recidivism	( ) Within 1 year after free ( ) Within 1 to 3 years after free ( ) More than 3 years after free	
Type of recidivism		
Level of severity of recidivism	( ) Lighter than the original crime ( ) Same as the original crime ( ) More severe than the original crime	

VII. Summary of Effective Sentencing

	Choice (✓)
Very Effective (No recidivism, significant positive change of behavior)	
Effective (No recidivism, moderate change of behavior)	

Ineffective (recidivism, but with light severity behavior)	
Very Ineffective (recidivism, but with same severe behavior or worse)	

Sentencing Effectiveness Towards Crime Perpetrator Form is meant to provide guidance for supervisory-and-observatory judge, investigator, advocates, correctional officers, victims, and ministry that handles financial recuperation in understanding what kind of sentencing that may be considered to be effective or ineffective. This form integrates point in punishment guidance as regulated in Article 54 of Act 1 of 2023 or Criminal Code such as identity, history and attitude in crime, attitude in trial, type of sentencing, type of correctional sentencing, recidivism, and summary of effective sentencing (Husamuddin et al., 2024).

Discussing about the elements of the sentencing effectiveness assessment form, the researcher researched both Act 1 of 2023 or Criminal Code with Criminal Procedural Law 2025. Identity element has been considered following Article 250 Sub-Article (1) letter b. History and attitude of crime has been considered following Article 23 of Criminal Code to recognize the convict's severity in crime. Attitude in trial element has been considered following Article 54 Sub-Article (1) letter c and f to recognize convict's consciousness and understanding of legal consequences. The use of 1-to-5 scoring in attitude in trial is meant to provide subjective and measurable response following Likert-style scale (Ferrando et al., 2025). Sentencing type element has been considered following Article 64 of Criminal Code to recognize range of sentencing in decisions that was granted to convict previously if there is any sentencing. Correction sentencing element has been considered following Article 103 Criminal Code to recognize correction that was conducted to convicts. Recidivism element has been considered following Article 23 of Criminal Code to recognize any repeat offense by convict. Summary of effective sentencing element act as legal analysis by supervisory-and-observatory judge to suggest on whether proper sentencing can be remedied or be let alone. These effective sentencing elements were made based on the consideration of Criminal Code objective which is to balance public interest while maintaining universal values and human right.

While this form assesses elements that may be vital for consideration towards effective sentencing, yet this form of this research is limited potently for supervisory-and-observatory judge (Harahap et al., 2024). This result may act as a strength of this research because it adheres to the guidance of sentencing as regulated in Article 54 of Criminal Code 2023 so that the elements of the form can be used to analyse proper sentencing for deciding what kind of sentencing to be decided upon proving (Tripathi, 2025).

History and attitude of crime element in the form is meant for judge to recognize number of crimes that has been done by perpetrator and whether the perpetrator has conducted same crime or different crime (Chaniago et al., 2025). This element may help judge to identify whether the perpetrator has familiarized him/herself to the similarity of crime (Sutrisno et al., 2024). Attitude in trial element in the form is meant for judge to identify the sincerity of perpetrator in trial with note that the trial proving has proven the guilt of the perpetrator. Cooperative, passive, or challenging attitude of perpetrator may give impression towards the judge of inherent feeling that

perpetrator may have towards the criminal justice system and his/her wrongdoing (Bramantyo et al., 2024). Type of sentencing element in the form is meant for the judge to know what kind of sentencing that has been done previously and to measure whether such sentence had effect towards perpetrator previously. Type of correctional sentencing element in the form is meant for judge to recognize whether judge has imposed to correct perpetrator so that he/she may reintegrate his/herself into the society well (Rubin, 2024). Recidivism element in the form is meant for judge to further analyse the number of repeating offense and how severe it is (Miles, 2024). In the end, element of summary of effective sentencing is meant for supervisory-and-observatory judge to conclude whether a criminal sentence has been effective or ineffective.

Sentencing Effectiveness Towards Crime Perpetrator Form hopefully can be deployed through Criminal Procedural Law 2025 or formalized further through Supreme Court Regulation that may act as legal standing for criminal procedural law in supporting the goal of criminal procedural law which is to enforce criminal law of ensuring the stability of society while protecting violated human right.

Comparison with Previous Studies

This research finding can be discussed with previous studies namely Putra's and Spisy's. Putra's research titled "Analisis Fiqh Siyasah Terhadap Peran Hakim Pengawasan dan Pengamatan Berdasarkan Pasal 277 jo. Pasal 280 KUHAP" argued that sentencing must focuses on justice and obedience to God. Putra's research referred Article 277 and Article 280 Criminal Procedural Law 1981 in the sense of justice and obedience to God. For this research, it implements and analyses Criminal Procedural Law 2025 which will be in effect since 2026 and focuses on 2023's Criminal Code purpose namely to support justice based on Pancasila. Putra's research also did not disclose how vital supervisory-and-observatory judge's role in supporting effective sentencing in Indonesia.

Another comparison to previous study is Spisy's research titled "Upaya Pemenuhan Hak Narapidana di Lembaga Pemasyarakatan Kelas II B Muara Bungo" (Spisy et al., 2025). This research concluded that overcapacity in penitentiaries is caused by lack of understanding convicts' background that may render ineffective sentencing such a low economy background. Compared to to Spisy's research that focuses on descriptive research, this research provides tool that may allow both supervisory-and-observatory judge along with correctional institution to provide correctional sentencing that gives proper meaning to increase the low economy so that convict may not return to conduct of crime and instead focuses on the embetterment of their economy.

Limitations and Cautions

This research is only limited to the possibility of actions that can done by supervisory-and-observatory judge. The Sentencing Effectiveness Towards Crime Perpetrator Form however may be used as reference by investigator, advocates, correctional officers, victims, and ministry that handles financial recuperation to understand what kind of proper effective sentencing taken by judges.

Recommendations for Future Research

Sentencing Effectiveness Towards Crime Perpetrator Form hopefully can be deployed through Criminal Procedural Law 2025 or formalized further through Supreme Court Regulation that may act as legal standing for criminal procedural law in supporting the goal of criminal procedural law which is to enforce criminal law of ensuring the stability of society while protecting violated human right.

Further research may develop such elements of effective sentencing for public prosecutors or even for investigators in understanding what kind of crime that may be prevented in the level of investigation or prosecution.

CONCLUSION

This study investigated how supervisory-and-observatory judge may provide report regarding proper sentencing for criminal perpetrator and how criminal procedural law 2025 may remedy improper sentencing and aimed to answer those problems. The findings demonstrated that role of supervisory-and-observatory judge proven to be a passive role that provide practical input to the betterment of effective sentencing, there is no clear guidelines or form to provide evaluation of effective or ineffective sentencing, and Criminal Procedural Law 2025 allows several types of sentencing that may allow humane sentencing than imprisonment such as judicial pardon. The consequence of not adopting such form would mean missing out on necessary sentencing elements as set in Article 54 of Criminal Code and Article 250 Criminal Procedural Law 2025. Considering the enforceability of Criminal Code and Criminal Procedural Law 2025 on January 2nd, 2026, the Government should draft and legislate further regulation regarding supervision and observation regarding sentencing especially with effective sentencing assessment form in this research. Notably, this research allows innovation of Sentencing Effectiveness Towards Crime Perpetrator Form as novelty for supervisory-and-observatory judge in answering effective sentencing. These results underscore that Sentencing Effectiveness Towards Crime Perpetrator Form may be applied directly by supervisory-and-observatory judge, suggesting that such deployment must have proper legal standing that can be formalized in the form of Supreme Court Regulation.

While this study provides valuable insights into technical effectivity in Criminal Procedural Law, certain limitations should be noted, such as it is limited to practicality of supervisory-and-observatory judge and not applicable for letter of indictment by public prosecutor. Future research should focus on analysis of effective investigation and prosecution based on Sentencing Effectiveness Towards Crime Perpetrator Form, potentially enhancing our understanding of effective sentencing and informing further regulation of criminal procedural law.

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