



Convict Rehabilitation Program in Investment Fraud

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Abstract. Investment fraud has increased recently in Indonesia and created victims on a massive scale, such as First Travel, Binomo, and Quotex. Cakrabuana Sukses Indonesia (CSI) occurred earlier than the three cases. The court decided this case in 2017 and immediately had permanent legal force because the two convicts did not take any legal action. In February 2023, both of the convicts finished serving their prison terms, though the sentence for asset forfeiture had yet to be fully executed. This paper aims at two things: the first is to reveal how the two convicts have passed the rehabilitation program, and the second is to explain the urgency of the special program for investment fraud convicts. This writing is socio-legal research with primary data from the Cirebon Detention Center, the Cirebon Rehabilitation Center, the Cirebon District Public Prosecutors Office, the Cirebon District Court, and the Cirebon Financial Services Authority. The secondary data on this research are obtained through a literature review related to investment fraud and convict rehabilitation. The results of the study show that the two convicts receive the same rehabilitation program as convicts in general. There is no involvement of related institutions such as the Cirebon Financial Services Authority and no monitoring from the Sumber District Court. The idea of providing a rehabilitation program for investment fraud convicts is relevant. The idea supports investment fraud prevention and has been accommodated in Article 54 of the Penitentiary Law with the condition that they are constructed as high-risk prisoners.

Keywords: convict rehabilitation, investment fraud, and penitential.

1. Introduction

Investment fraud is part of fraudulent crimes. The perpetrator makes the victim mistaken in making their investment decision, making the victim not realize that they are placing their money in a fictitious business. Fraud prevention system generally do not provide adequate security against these crimes.[1] Early detection of this crime is also relatively difficult because the perpetrators take advantage of loopholes in the system that apply to the business sector.[2] The Financial Services Authority estimates that the losses incurred due to investment frauds in 2008-2018 reached 88.8 trillion rupiahs.[3] In 2018, the Financial Services Authority also informed that investment fraud hideout were found in Cirebon (West Java) due to the existence of various cases such as Cakrabuana Sukses Indonesia (CSI), United Nation (UN)

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Swissindo, Famili 100, and Komunitas Pekerja Mandiri Indonesia (KPMI).[4] Thus, the perpetrators of this crime relatively can influence other people very well.

Various researches have been conducted to explain the issue of investment fraud, which can be seen from several tendencies. First, research on criminological aspects[5]–[7] shows that investment frauds arise because victims are presumptuous in seeking profits without considering risks.[7] Second, research on the prevention of investment fraud[8]–[10] shows that a whistleblowing scheme can prevent significant fraud.[9] Third, research on the criminal law framework for investment frauds[11]–[13]–shows that investment frauds are related to money laundering crimes.[12] Various researches in line with this tendency, research on investment fraud convict rehabilitation programs prepared by the Directorate General of Corrections are still limited.

This research aims to reveal the policies of the rehabilitation program for convicts in investment fraud cases as the focus of the research. Investment fraud is fundamentally fraud using various methods such as cryptocurrency, influencers, and claiming to have permission from the Financial Services Authority.[14] Convict rehabilitation aims to prevent recidivism by making convicts regret their actions and develop their personalities to obey legal values.[15] On February 21, 2023, the two convicts in the CSI case had completed their prison sentences fully. [16] However, the asset recovery execution process that the Prosecutor was carrying out had not yet been completed. In line with that, it is formulated with the research objective of finding two patterns of fostering investment fraud convicts: the current rehabilitation program and the ideal rehabilitation program in the future. The purpose of this research is to guide the entire discussion in this study to find a model for convict rehabilitation programs that can be applied to specific crime typologies.

There are two arguments underlying this research. First, the Directorate General of Corrections has not prepared a special rehabilitation program for investment fraud convicts. Second, the national legal framework has not placed prisoners based on the number of victims or the destructive effect of their crimes. It's still focuses on conventional paradigms, such as limiting crimes that have been popular as extraordinary crimes. In other words, no special rehabilitation program for investment fraud convicts is currently available, therefore the goal of avoiding recidivism is still in doubt. This research offers ideas on formulating an ideal rehabilitation program for investment fraud convicts.

2. Problems

This study is written to solve the following problems:

- a. How is the Rehabilitation Program that Investment Fraud convicts go through in Indonesia?
- b. What is the urgency and model of a Special Rehabilitation Program for Investment Fraud convicts in Indonesia?

3. Method

This research focuses on the big issue of investment fraud with the point of view of the rehabilitation program provided by the Directorate General of Corrections to investment fraud convicts. The Rehabilitation Center or Detention Center then implements the program. The research was conducted empirically and focused on CSI cases. The primary data in this study were obtained from focus group interviews with officers in institutions involved in convict rehabilitation, including:

Table 1. Research Location

No	Institution	Task
1	Cirebon Detention Center	Provide rehabilitation program
2	Cirebon Rehabilitation Center	Supervising conditional release process
3	District Public Prosecutors Office in Cirebon	Receive compulsory report in conditional release
4	Sumber District Court	Punishing the perpetrators
5	Cirebon Financial Services Authority	There is no role in convict rehabilitation, but this institution oversees business activities in the financial sector

The interview activity was carried out for one week (9 – 13 January 2023) with a focus on issues regarding the characteristics of the rehabilitation program for CSI case inmates. Secondary data complements this research by examining regulations and references on the same issue. The data collected is displayed in tabular form with descriptions explained. The data was analyzed using the content analysis method to find an interpretation of the special rehabilitation program for investment fraud convicts.

4. Discussion

4.1. The Rehabilitation Program is Not Prepared to Rehabilitate Investment Fraud Convicts

The legal process for the CSI case began with the arrest of two CSI Leaders on November 25, 2016, namely Iman Santoso (commissioner) and Mohammad Yahya (director). This case was tried at the Sumber District Court under number 193/Pid.B/2017/PN Sbr. On August 3, 2017, the Panel of Judges ruled that both were guilty of fundraising activities in savings or investments based on Sharia Principles without a business license from Bank Indonesia, continuously and jointly committing money laundering. The proven crime is regulated explicitly in Article 59 paragraph (1) of Act No. 21/2008 of the Sharia Banking in conjunction with Article 55 paragraph (1) 1st in conjunction with Article 64 paragraph (1) of the Penal Code, Article 3 of Act No. 8/2010 of the Prevention and Eradication of Money Laundering in conjunction with Article 55 paragraph (1) 1st in conjunction with Article 65 paragraph (1) of the Penal Code. The sentence set by the Judge for both of the convicts is as follows:

Table 2. Details of Punishments

No.	Punishment	Sentencing
1	Prison	7 years
2	Fine	Rp15.000.000.000,- (subsidiary 5 months in prison)
3	Asset Forfeiture	1) 59 Properties;
		2) Rp25.222.524.747,85 savings;
		3) USD 88,250.00 savings; and
		4) 1 Mitsubishi Pajero Sport Car
		5) 2 Handphone (Blackberry Curve and Iphone 5s)

The predicate crime regulated in Article 59 of the Sharia Banking Law formulates a threat of imprisonment for a minimum of 5 years to a maximum of 15 years. The amount of imprisonment for 7 years shows that both were only sentenced to the equivalent of less than half of the maximum threats stipulated in the article. This amount is influenced by aggravating factors, namely, investment frauds have disturbed the community and the mitigating factors are that the convict behaves politely, admits his actions, and is not a recidivist. The loss incurred in this crime are massive. The continuous validation process obtains the following data:

Table 3. Development of the Number of Victims

No	Source	Victims	Investment Value
1	Verdict No. 193/Pid.B/2017/PN Sbr.	980	not mentioned
2	Decision of the Head of the Cirebon District Prosecutor’s (November 8, 2021)	2.905	Rp309,891,770,000
3	Decision of the Head of the Cirebon District Prosecutor’s (January 17, 2022)	3.868	Rp336,894,270,000

The rehabilitation program that the two CSI convicts undergo is the same as other prisoners, with the following details:

Table 4. Details of the Rehabilitation Program

No	Type	Form
1	Personality Rehabilitation	Tadaruz (reading Al-Qur’an)
2	Self-Reliance Rehabilitation	Catfish farming and rotan crafts

The punishment shown in Table 2 shows that the two convicts have obtained spectacular profits from their crimes. Hence, the punishment given is not only corporal punishment but also punishment for property assets. This profit is linear with the massive number of victims as shown in Table 3. The two convicts successfully influenced thousands of victims to place their funds in investment instruments which were never declared legal by the Financial Services Authority. The exceptional characteristics of crimes committed by convicts do not show that convicts receive special treatment in their rehabilitation programs. Table 4 shows that the available rehabilitation programs are general rehabilitation programs for other prisoners.

From the victim’s perspective, the sentences in Table 2 prove that the judge considered Restorative Justice, not only giving the perpetrator grief but also trying to restore the victim’s financial losses. The crimes committed by the perpetrators have

had a very destructive impact, as shown in Table 3 because they were well-organized crimes so that people could mobilize their choice of investment instruments. The characteristics of punishment and crime in the two tables appear to be non-linear with the rehabilitation program. As shown in Table 4, the two convicts are treated the same as other prisoners. These programs are disproportionate because they do not compensate for the difficulty of asset investigations carried out by Police Investigators to seek asset recovery and the lengthy efforts to recapitulate the number of victims by the District Public Prosecutors Office, which takes 5 years.

Both convicts served their prison sentences in a different place than the Correctional Institution, but rather in the Detention Center. The correctional institution is the place where a prison sentence is served after a judge declares the conviction.[17] The defendant, who was initially in the detention center, was required to change placement in prison to serve their sentence and become a convict.[18] Since being detained on November 26, 2016, the two convicts have never moved from the Cirebon Detention Center, while this placement is under the authority of the Regional Office of Law and Human Rights in West Java. This practice deviates from the Penitentiary Law that correctional institutions are places to guide on imprisonment, while detention centers are places to carry out the function of detention. This placement also contradicts the Circular Letter from Directorate General of Corrections No. PAS 1152.PK.01.01.02 of 2020 that the placement of convicts in detention centers is only a maximum of 12 months, while the two convicts are sentenced to 7 years. Therefore, the two prisoners in the CSI Case received preferential treatment and were indicated to have violated regulations.

The convicts in the CSI Case receive the same program as the prisoners in general. The special rehabilitation program is relatively constrained due to the absence of a particular room[19] or particular officers[20]. The model of a special rehabilitation program for certain convicts is one of the conditions for achieving effective implementation of rehabilitation.[21] The rehabilitation programs available at the detention center are only personality and independence. The program forms are similar, namely *tadarus*, catfish farming, and *rotan* crafts. Convicts in the CSI case have the characteristics of causing victims on a massive scale, reaching 3.869 victims. From various informants spread across the Public Prosecutor's Office, Detention Center, Rehabilitation Center, District Court, and Financial Services Authority, there were similarities in information that there were rumors about the big-barrels and small-barrels which resulted from problems with the verification process at the Public Prosecutor's Office. This concern makes the two convicts indicated to have a high risk based on Article 53 of the Penitentiary Law. The Directorate General of Corrections should prepare a special rehabilitation program because the CSI convicts are high-risk prisoners.

The success of the rehabilitation program for convicts of the CSI case is doubtful because it is not linear between the pattern of investment fraud and their rehabilitation activities. Comprehensive sentencing does not only consider aspects of punishment but also aspects of fostering convicts.[22] Rehabilitation aims to avoid recidivism by making the prisoners realize their mistakes and improve themselves. [23] Avoiding recidivists is important because crimes against property, such as CSI,

have a higher probability.[24] Various rehabilitation activities, such as reading the Al-Qur’an, catfish farming, and *rotan* crafts are not harmful programs but are irrelevant. Programs like this arise because they do not involve other institutions that have the competence to educate investment fraud convicts, such as the Financial Services Authority. The program was not even supervised and observed by the Sumber District Court which handed down a sentencing decision. This practice shows that the opportunity for CSI convicts to commit crimes has the potential to occur.

The recently developed penitentiary concept considers particular programs for each prisoner’s characteristics or crimes. The success of the generalization program is doubtful, because the efforts to reduce recidivism are not correlated with the participation of convicts completing the program.[25] In the case management-based prison concept, the specifications of the rehabilitation program are adjusted to the risks and needs of each prisoner by involving skilled practitioners.[26] Prison is a punishment for deprivation of liberty, which impacts on human dignity. As a result, prisoners experience demotivation so they have difficulty resocializing. [27] The theory of convenience refutes this, that white-collar criminals can to neutralize feelings of guilt using illegitimate gains, even the inconvenience of the judicial process can even be compensated by themselves.[28] This theory means that there are sufficient arguments to reject generalizations in the rehabilitation program for investment fraud convicts.

The CSI Case convicts’ rehabilitation has been completed before the punishment of assets. In crimes with the characteristics of harming property, victims tend to expect their property to return as a form of recovery, not for the perpetrators to be sentenced to prison.[29] The needs that the victim needs are conditions that are as maximal as possible as before the occurrence of a crime.[30] The Judge of the Sumber District Court sentenced the two CSI convicts on August 3, 2017, to 7 years in prison and confiscation of goods for asset recovery. Then, on May 28, 2021, the two convicts began undergoing conditional release ending with pure release on February 21, 2023. Until then, the Cirebon District Public Prosecutors Office had not completed the asset recovery process. Thus, incentives for reducing prison terms do not require the participation of convicts to facilitate the execution of sentences against assets resulting from money laundering.

4.2. The Urgency of a Special Rehabilitation Program for Investment Fraud Convicts

The two convicts serve prison sentences at the Cirebon State Detention Center, instead of the Rehabilitation Center. According to the Detention Center informant, information was obtained that:

“Determining the placement of convicts is the authority of the Regional Office of the Ministry of Law and Human Rights of West Java Province. In this case, the Cirebon Detention Center only carries out an instruction policy regarding the placement of convicts.” (Interview January 13, 2023)

Table 5. Prison Sentences Timeline

No	Date	Explanation
1	August 3, 2017	The two convicts began serving their prison sentences at the Cirebon

Detention Center		
2	October 25, 2021	The two convicts began to undergo conditional release, were returned to society, and carried out compulsory reports at the Cirebon Rehabilitation Center and the Cirebon District Public Prosecutors
3	February 21, 2023	Both convicts are acquittal

The process of granting the conditional release had experienced problems. The community was intense, trying to meet the two prisoners to ask for clarity on compensation. According to the Cirebon Rehabilitation Center:

“At least five times, meetings have been facilitated between community groups and the two prisoners, questioning the guarantee of getting a refund if they can return to society through conditional release. The length of this process has even made the Cirebon Rehabilitation Center suffer a stigma that makes it difficult for victims to obtain compensation. The length of the conditional release process is due to the new provision which makes conditional release given when 5/6 of the sentence has been served and the intensity of the community trying to communicate directly with the two convicts while attending the Session of the Correctional Monitoring Team.” (Interview January 13, 2023)

The rehabilitation program that convicts have undergone before entering the conditional service stage or where they are in the Cirebon Detention Center is relatively run alone. The following are interview excerpts from various informants on this matter:

Table 6. Summary of Involvement of Various Institutions in Rehabilitation

No	Institution	Explanation
1	Cirebon District Prosecutors Informant	Conditional release requires both convicts to carry out compulsory report activities once a month. Compulsory reporting is done by simply signing the file. There are no other activities such as discussing the auction execution of confiscated assets. (Interview January 9, 2023)
2	Sumber District Court Informant	The two convicts were not supervised and observed, because both did not want it. Thus, the Detention Center had difficulty facilitating them. (Interview January 10, 2023)
3	Cirebon Rehabilitation Center	The rehabilitation program available within the Directorate General of Corrections, involves only the Public Prosecutor’s Office for compulsory reports in the implementation of conditional release. (Interview January 13, 2023)
4	Cirebon Financial Services Authority Informant	We have never been asked by the Cirebon Detention Center to provide understanding to the two convicts regarding the regulations for carrying out business activities to raise funds (investment). In practical experience, I have never found a request like this. (Interview January 14, 2023).
5	Cirebon Detention Center Informant	No surveillance and observation files were found for the two convicts, which means the Sumber District Court did not carry them out. In practice, we do not know other prisoners’ surveillance and observation results, and they are not reported formally. The rehabilitation program does not involve the Cirebon Financial Services Authority because the standard operating procedure does not instruct it to do so. (Interview January 15, 2023)

In this interview process, all informants provided the same additional information about the small-barrel and big-barrel rumors. The small-barrel is a source of restitution for the victim’s losses, as shown in Table 2, derived from the asset

forfeiture punishment stipulated by the Sumber District Court. Big barrels are a source that CSI still owns, called big because the amount exceeds the small-barrels. This rumor then became an obstacle to the District Public Prosecutors Office in Cirebon in obtaining the number of victims, meaning that the number of victims validated in Table 3 is not the actual number. This rumor also caused the Cirebon Rehabilitation Center to receive requests for audiences several times from the community. The Correctional Monitoring Team trial was the only communication access for the community to the prisoners because they needed permission from the Detention Center Officer and the willingness of the two convicts visited at the Cirebon Detention Center.

Table 5 shows that the length of the prison term depends not only on the court's decision but also on the prisoners' cooperative attitude in the Detention Center. During the conditional release process, this process is the only communication channel the victim can access to ask for clarification and regarding the small and big-barrel rumors. The interview results are shown in Table 6, showing that the rehabilitation program was only carried out by the Cirebon Detention Center without involving the Cirebon Financial Services Authority to improve investment understanding based on regulation. The Court has not evaluated the program the two convicts have participated in, and there is no order available for the two to assist the Prosecutor's Office in executing asset recovery for the victim. Rumors about small and big barrels have potential validity because these rumors are known to all informants across the five institutions.

The Court did not oversee the rehabilitation program for convicts of the CSI Case. The final phase in the criminal justice system is not sentencing decisions but the execution of the court decision through court supervision.[31] Supervision is carried out through observation of the rehabilitation program undertaken by convicts, this activity is called surveillance and observation.[32] In the Indonesian Criminal Code Procedure, this matter has been explicitly regulated in Articles 277 to 283 and is only limited to imprisonment. Even though the Criminal Code Procedure ordered this, the Sumber District Court did not conduct surveillance and observation against the two CSI case convicts. Files examination at the Cirebon Detention Center found no archives showing surveillance and observation activities. In practice, there was no intensive dialogue regarding the surveillance and observation results activities for other prisoners. In this case, there was no integration of the criminal justice system in the execution of prison sentences against the two CSI case convicts, because there was no transparent evaluation scheme.

The number of victims in the CSI case is enormous and the impact of the crime is pervasive. The impact of this Ponzi scheme-based crime will be even more widespread if it is done digitally, such as Bitcoin or Ethereum.[33] Furthermore, this crime can continue to survive because rebranding can be done.[34] Learning from Bernard Madoff's case, victims experienced adverse effects on finances, mental or emotional, interpersonal, physical, life journey, and even changes in trust in the government.[34] In the CSI case, the number of victims that have been verified has reached 3.868 customers. The massive number of victims shows that the two perpetrators influenced others to help their crimes. Based on the Elucidation of Article

54 paragraph (1) of the Penitentiary Law, one of the characteristics of high-risk convicts is controlling other people to commit crimes. Thus, convicts in the CSI case should be constructed as high-risk prisoners.

The involvement of other institutions dealing with investment management does not occur in the convict rehabilitation program. Convict rehabilitation is oriented towards making convicts realize their mistakes to keep away the opportunity to repeat their crimes.[35] This success depends on the role of various parties, one of which is the agency related to crime prevention so that the rehabilitation program can be formulated more precisely.[36] The current available rehabilitation programs are only compiled independently by the Directorate General of Corrections. Specific programs are only available for terrorism convicts through the deradicalization program. The Financial Services Authority, as an institution overseeing the financial services sector, is not involved in the CSI convict-rehabilitation program. Thus, the integration of the criminal justice system needs to be broadened in its interpretation. The prison sentence execution sub-system needs to involve non-law enforcement agencies with capacity in the financial sector, such as the Financial Services Authority.

Prisoners that are currently receiving special rehabilitation program are terrorist convicts, taking into account the high-risk aspect. This program started in 2012 with a prevention approach but was criticized through the deradicalization material itself, and was even rejected ideologically by the prisoners. [37] The program is influenced by the lack of a solid definition of terrorists, which is very dependent on the differences in people or groups that define them.[38] In the study of the Fraud Meta Model, investment fraud is caused by opportunity, rationalization, and financial pressure[39], meaning that this crime tends to be pragmatic, not ideological. According to the study of the fraud triangle and crime triangle, fraud is caused more by environmental factors, in that those who play a role in prevention do not carry out their role.[40] Failure to prevent has resulted in widespread repercussions such as financial difficulties, damaged relationships, psychological effects, and health problems.[41] Therefore, special rehabilitation programs for investment fraud convicts should not experience the difficulties and complications of deradicalization.

Special rehabilitation programs have been accommodated in the 2022 Penitentiary Law. These programs are limited to terrorist convicts (deradicalization) and narcotics (rehabilitation)[42], departing from the idea of eliminating opportunities and space for convicts to invite other convicts to be involved in the same crime.[37] Article 54, paragraph (3) of the Penitentiary Law stipulates that the special rehabilitation program is to place convicts in a particular place and provide programs that involve other agencies. The article also explains that special programs are only intended for high-risk convicts, one of which is influencing or controlling other people to commit criminal acts. According to Clinard and Cressey's Triangle Theory (1954), fraud occurs because of pressure, opportunity, and rationalization. [2], [43] Rationalization is the ability to influence terrorist convicts. Therefore, investment fraud convicts should receive a special rehabilitation program like terrorism crime convicts.

5. Conclusion

Analysis of the rehabilitation program in the Cakrabuana Indonesia investment fraud case reveals some crucial weaknesses, reinforcing the failure of coaching based on convenience theory. Weaknesses of the rehabilitation program include unreasonable facilities for convicts because they are not in prison, monopoly of rehabilitation programs, lack of supervision by judges, and existing programs that do not relate to the characteristics of crime. Investment fraud convicts can be considered part of the scope of high-risk prisoners because they can potentially influence others to become victims and even make others work to carry out their crimes. Building a new paradigm that, other than terrorist crimes, is also relevant, provided a special rehabilitation program is provided, while at the same time opening up the involvement of other institutions that have the competence to deal with crime.

Article 54 of the 2022 Penitentiary Law is the basis for providing special rehabilitation programs for high-risk prisoners by involving relevant agencies. This program is designed to provide actors with a comprehensive understanding of the value promoted in conducting investment business activities. The hope is that the potential for recidivism can be reduced as much as possible because the development of cyberspace will enable the transformation of investment frauds to occur with new complexities. This research has limited data obtained from direct convicts. All data was obtained from institutions carrying out law enforcement duties. Communication with prisoners is not yet possible at this time, because the social environment of the prisoners is not conducive, sometimes clashes between groups of perpetrators still occur.[44] Further research should be carried out by completing data from the side of the perpetrator who has finished serving their sentence, including data from the victim's side.

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