

Artificial Intelligence In The Implementation Of Criminal Case Settlement Law Using Restorative Justice Based On Progressive Law

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Abstract. Taking into account evolving theories of justice, restorative perspectives, and evolving laws, the law is expected to provide better solutions to various situations due to the use of AI and algorithms. The purpose of this research is to evaluate and study the use of Artificial Intelligence in handling criminal cases by using restorative justice perspectives and progressive legal methods. This study rejects the use of artificial intelligence as a tool in criminal problem solving through a restorative justice approach. In a progressive legal perspective, AI is also not in line because progressive law places more emphasis on aspects of conscience, empathy and spirituality. Progressive law rejects law only with intellectual intelligence that matches the letter, while AI is just a big data-based application which of course has no spiritual side or dimension or conscience.

Keywords : Artificial Intelligence, Settlement of Criminal Cases, Restorative Justice, Progressive Law

1 Introduction

In the digital era and the Internet of Things (IoT) like now, where all data can be digitized and drawn from anywhere even in real life, of course, making Artificial Intelligence or artificial intelligence grow very rapidly throughout the world.[1] Including in Indonesia, where at least half of the Indonesian population can already access the internet.[2] But of course in developed countries that access it almost 100%, the development of artificial intelligence can be faster because more data can be utilized to develop artificial intelligence.[3] To be able to process this extraordinarily massive amount of data, qualified computer capacity is needed. That is what causes artificial intelligence to grow rapidly when technological developments make computing power more affordable. In

addition, the development of cloud computing technology (cloud computing), is also the cause. Computing power to process big data and create artificial intelligence is no longer expensive.[4]

The influence of Artificial Intelligence (AI) in human life is not only limited to helping facilitate a field of work but more deeply than that its influence can change a pattern of life and human habits. [5] In its development, Artificial Intelligence (AI) has penetrated into various sectors of human activities and in this case it is no exception covering the field of law, China is a country that began in 2017 has used Artificial Intelligence (AI) technology as a judge in digital cases, but this is certainly still limited and continues to develop.[6] Not only the Netherlands is using AI in the legal sector, but also other countries, so that people can access the country's regulations and treaties. [7]. An online legal platform called LIA (Legal Intelligence Assistant) uses AI to help users get information on legal issues.

Whether artificial intelligence can fully or totally replicate or take over human functions in the application of law is an important question. Gustav Radbruch said that the purpose of applying the law should focus on three things: 1) legal certainty, 2) justice, and 3) effectiveness[8]. To achieve the goal of justice, the means of achieving it must involve the most profound aspects of humanity and take into account the social and cultural factors that affect those who seek justice. Laws are usually made through legislation. However, the intended content and purpose of laws cannot always be fully described in the text.[9]

As explained by Sudikno Merto Kusumo, according to the utilitarianism school founded by Jeremy Bentham, the law is intended to ensure maximum welfare for as many people as possible.[10] To provide only with the text of the law, it would not be adequate what is the purpose of the law. The Artificial intelligence approach, which may only be a textual representation of law, is not yet a representation from the human side as a case breaker with conscience. For this reason, several formulations of the problem arise: How is Artificial Intelligence in solving criminal cases, restorative justice perspectives and progressive law?

2 Method

In this research, normative juridical is used. Normative research sees law as written rules or standards that help people behave. It is used to judge an action as good or bad.[11]

3 Result and Discussion

3.1 Artificial Intelligence for Criminal Case Solving Restorative Justice Perspective

Artificial intelligence is a tool made to think and act like humans. To explain further, areas of computer science include programming, which aims to mimic human intelligence. Another field of computer science is artificial intelligence, which focuses on creating computers that can mimic the way people think and act. When human intellectual abilities are incorporated into a machine tool,

artificial intelligence (AI) can think like a human. The capacity to solve problems is continuously strengthened by the use of artificial intelligence. [12] Artificial intelligence is a computer system that can complete tasks that would normally require human intelligence or human effort to complete.

Artificial intelligence is a technology that mimics the processes performed by humans by processing data into knowledge. In order for artificial intelligence capabilities to be improved, experience and information are required. Learning, formulating arguments, and the ability to self-improve are important parts of the development of artificial intelligence. In addition, artificial intelligence can be self-learning when used by humans. In general, artificial intelligence has the ability to perform one of the following four functions: 1) Behave like a human, which is a system that can behave like a human; 2) Think like a human is a system that can think like a human; 3) Think logically, meaning a system that can think logically; and 4) Act logically, meaning a system that can act based on rational considerations.

Its existence as an application is very helpful for human activities. According to Darshan Bhora and Kuldeep Shravan, Minsky's opinion describes artificial intelligence (AI) as machines that can act like humans by using their intelligence. Artificial intelligence is intended to improve thinking skills, idea recognition, problem solving, logic development, and task planning. The technology also concentrates on various additional tasks that can speed up and improve work productivity.[13]

How can artificial intelligence (AI) solve criminal cases with a restorative justice model?Criminal law essentially serves to maintain order, serves to protect private and public interests Law must be implemented properly because the state has the power to enforce the law Law is the last social control in government when all control systems do not work effectively Roscoe Pound argues that law is a very specific form of social control exercised in authorized institutions, i.e. judicial and administrative procedures. For this reason, balance is needed in society.[14]

The Attorney General's Regulation Number 15 of 2020 on Termination of Prosecution Based on Restorative Justice has made the term restorative justice more popular. Regulation of the National Police of the Republic of Indonesia Number 8 of 2021 concerning Handling Criminal Offences with a Restorative Justice Approach was also issued by the police. Meanwhile, Decree of the Director General of the General Court Agency Number 1691/DJU/DK/PS. 00/12/2020, issued on 22 December 2020, establishes a restorative justice mechanism. The restorative approach to case resolution places wisdom above 'black and white'.

The concept of restorative justice emphasises efforts to achieve justice and balance between perpetrators and victims of crime. A justice system that usually focuses on procedural and criminal

sanctions is transformed into a dialogue and mediation approach to reach consensus on a more balanced and fair settlement of criminal cases for both perpetrators and victims.

Cultural values such as peace, balance, and harmonisation are the foundation of restorative justice approaches. Restorative justice centres on empowering offenders, victims, families and communities to repair offences. This method is based on awareness and understanding to improve the quality of community life. Restorative justice is a criminal case resolution process that involves offenders, victims, and communities directly in resolving criminal matters with the goal of restoration.[15]

Philosophically, this concept offers a form of resolving various legal cases that occur outside the existing criminal justice process, so that the community does not only depend on existing procedures in accordance with the reflection of Pancasila values, namely "Just and Civilized Consultation" in order to achieve social justice for all people or citizens in the Republic of Indonesia. One form of solution offered is the settlement process in the context of Restorative Justice.[16] Strictly speaking, in solving a case, it must present all parties to resolve (resolve) problems that have implications in the future.

When the concept of justice restoration emphasizes and emphasizes the aspect of togetherness marked by the presence of several parties in solving problems, it is clear that this concept is not parallel to the concept of artificial intelligence (AI) which in solving a legal problem, cannot be separated from the application system designed by the program. As an application, it certainly will not (be able to) present considerations of conscience as a basis for solving cases.

3.2 Artificial Intelligence Criminal Case Resolution Progressive Legal Perspective

Legal thinking must return to its basic philosophy of law for man if you see law as progressive. [17] According to this philosophy, people are considered to be the determinant and centre of progressive law. Law functions for the benefit of humans, not the other way round. The ability of the law to aid human welfare determines its quality. This leads to progressive law embracing principles that favour justice and the interests of the people. [18]

The legal system from this perspective is not a building tree of protection but an instrument that must be devoted to and serve human interests. Progressive law is built with 2 (two) backgrounds, namely: (1). Continuous concern must be developed about how to encourage the law to provide better and better services to the nation. (2). The desire to encourage the community so that in law

does not know the time to stop, but the community always wants the law to do something towards a better situation.[19]

The basic doctrine taught by progressive law is based on the following principles:[20]

- a) The view held by progressive law is that the law is made for the benefit of humans, not the other way round, where humans are made for the benefit of the law.
- b) That law is not an eternal and permanent institution because law always develops as a process (law as a process, law in the stage of creation).

The emergence of AI in Indonesia as a legal system may ignore the goal of progressive law. That the implementation of law, which means applying the law only by using the application it is intended to be used for, will result in a simple and easy-to-understand conclusion in a case. When the conscience of the legal system is not involved in case decision-making, the law will only be a rigid tool. Fundamentally, progressive legal idealism holds that law is an organisation that is meant to create happiness for human beings and help them live a just and prosperous life. [20] The essence of progressive legal doctrine is not to obey or surrender to the existing law, but to consider the law from a critical perspective.[21]

True justice will not be achieved through the use of artificial intelligence (AI) as a substitute for humans in law enforcement and operations. Robotic technology supported by big data may be able to surpass the ability of humans to provide legal documents as legal references. However, when Artificial Intelligence (AI) is expected to decide cases and create significant justice, the principles of progressive law seem contradictory.

Relying on the application system to enforce the law is akin to applying textual punishment in a new form, or neo-textual. Progressive law enforcement means applying the law by considering more than just the strict text of the law; it also means considering its true value and essence.' However, apps based on big data can only be understood literally and cannot understand its true meaning. [21] However, applications based on big data can only be understood in a literal way and cannot grasp the true meaning. To achieve a deeper understanding, a contemplative state of mind through a process of deep consideration is required.

Some people believe that Artificial Intelligence (AI) has the ability to provide profound answers that are almost equal to human intellectual intelligence. Progressive law enforcement depends not only on intellectual intelligence, but also spiritual intelligence, even if it is beyond human capabilities. Those who execute the law with passion, care, earnestness, and commitment to society's woes and have the courage to consider unconventional alternatives. [21] In statements relating to

progressive legal theory, it is also emphasised that the law cannot be compared to a robot, which has a pre-programmed program and logic.

3 Conclusion

Artificial Intelligence (AI) as an instrument for solving criminal cases, through a restorative justice approach is not parallel, and does not make the restorative justice approach relevant to Artificial Intelligence (AI), because restorative justice emphasizes aspects of discussion and deliberation between interested parties or parties. In the perspective of progressive law Artificial Intelligence (AI), it is also incompatible because in progressive law emphasizes more aspects of conscience, empathy and spirituality. Progressive law rejects law only with intellectual intelligence according to letter, while Artificial Intelligence (AI) is only a big data-based application that certainly has no spiritual and conscience side or dimension.

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