

State Liability in Legal Protection Against the Defendant That Was Proven Not Guaranteed in The Criminal Action Jurisdiction Process

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Abstract. In the reform era, legal protection and respect for human rights are sometimes still faced with the fact of negligence in law enforcement, especially The Criminal Procedure Code and the Criminal Procedure Code are two separate pieces of legislation (Law No. 8 of 1981) process. So that it is not uncommon for wrongful behavior to occur by law enforcers, and not infrequently members of the public who are considered to have committed a criminal act are then declared innocent in the judicial process. Problems; How is the state's responsibility towards the defendant who was decided by the court to be proven innocent in a criminal case? The research method on this problem is carried out through normative and empirical legal research. The results of his research that; the responsibility of the state to provide legal protection to suspects who are proven innocent, this is an order from the state constitution, as well as to provide legal protection for human dignity and other rights connected to Indonesian law enforcement, which must be enforced by law enforcers. Legal protection of human dignity by implementing the principle of presumption of innocence is also an obligation that must be accounted for by law enforcement at all stages of the criminal law enforcement process, from the investigation, prosecution to judicial process. The form of compensation for defendants who are proven innocent, namely the Government Regulation Number 92 of 2015, Concerning the Second Amendment to Government Regulation Number 27 of 1983, Concerning the Implementation of the Criminal Procedure Code, and Related Matters, Rehabilitation. In its implementation, the provision of rehabilitation and compensation has not yet been felt to obtain the legal certainty that should be obtained by the defendant who is legally proven innocent.

Keywords: State responsibility in legal protection

1 Introduction

Legal protection Pancasila and the 1945 Constitution are the foundations of this work is obligated to provide legal protection to its citizens, following Protect the Indonesian nation as a whole and the Indonesian people as a whole territory, according to the fourth paragraph of the 1945 Constitution's preamble. It is built on the ideals of God, humanity, unity, deliberation, and social justice, and it recognizes and protects human dignity. Human rights, both as individuals and as social creatures, are recognized and protected as a result of these ideals.

The use of the assumption of innocence in criminal cases law enforcement places the state in recognizing the rights of people suspected of committing a crime that is currently To prove the elements of the crime in the criminal justice system criminal accused. Furthermore, it is the judge who will decide to If the evidence is limited by law and backed by the judge's belief in its existence, impose a punishment on the defendant.

The principle of presumption of innocence emphasizes that in every criminal case process for the sake of upholding the law, it must be carried out on the basis of the presumption of innocent Protection and respect for human rights are the main pillars in every rule of law if in country human rights are neglected or violated intentionally and the suffering caused cannot be handled fairly, then the country concerned cannot be called a state of the law in the true sense.

The implementation of a judicial process that is fast, easy, cheap, open, free: corruption, collusion, and nepotism is an internal part of the Indonesian legal culture. The embodiment of legal certainty and justice has given rise to forms of criminal law that are formulated in law or a book of laws (codification).

The Indonesian the Criminal Procedure Code is codified in legislation, most notably in Criminal Procedure Code Law No. 8 of 1981 Procedure Code. The Code of Criminal Procedure (KUHAP) is a provision of criminal procedural law norms that are formulated in writing, which are compiled based on values and general legal principles to fulfill the requirements of the community.

By amending the Criminal Procedure Code Law No. 8 of 1981 has provided legal guarantees for suspects to obtain the protection of their rights and get fair treatment before the law, proving whether or not a suspect or defendant is wrong must be done in front of a court session which is open to the public. The practice of attempting Law enforcement is the process of enforcing or implementing legal standards as a guidance for actors in social and state life who are involved in traffic or legal connections. It includes the precautionary principle in carrying out legal proceedings against parties who are suspects and defendants regarding the existence of a crime, which has the right to legal protection and respect for their human rights as stipulated the administration of the criminal justice system is governed by the Code of Criminal Procedure. The Criminal Procedure Code's Article 52 gives a suspect or defendant the right to remain silent freely submit information to the investigator or judge during an investigation or court hearing.

Based on a brief description of these thoughts, this paper is entitled: How is the state's responsibility towards the defendant who was decided by the court to be proven innocent in a criminal case?

The research method on this problem is carried out through normative legal research. The research specification is descriptive because the researcher tries to describe or describe the effort to give birth to legal argumentation so that it will be able to give birth to thoughts that can provide answers to the legal problems that exist in this study.

2 Results and Discussion

The As stated in the state of Indonesia is legal, according to Article 1 paragraph (3) of the Republic of Indonesia's Constitution of 1945. The Present Situation Law is defined as a state based on law, namely without exception all state apparatus and citizens, both the people and state officials who are also included in the bureaucrats must always obey the law. Law enforcement in a restricted meaning is referred to as law enforcement, whereas law enforcement in a broad sense, in the sense of material law, is referred to as justice enforcement. So the point

here is to underline that the law that must be implemented encompasses more than simply the rule itself, but also the ideals of justice contained in it.[1]

Based on the accountability theory approach, that: a person is legally accountable for a certain act or bears legal responsibility, the subject signifies that he is responsible for a sanction in the event of a contrary act. Accountability and responsibility are two terms used in the legal lexicon to describe responsibility. Liability relates to legal responsibility, i.e. liability for mistakes made by legal subjects, whereas responsibility refers to political responsibility.

The theory of responsibility focuses more on the meaning of responsibility that is derived from legal and regulatory provisions, therefore it is interpreted in terms of liability, as a notion relating to the legal obligations of a person who is legally responsible for actions are violated, which results in being subject to a sanction for cases of unlawful acts.

Although not implicitly, any person suspected of committing an unlawful act, on the basis of the presumption of innocent, that person has legal legitimacy to obtain legal protection. Legal protection, according to Satjipto Rahardjo, is "protecting human rights (HAM) that have been violated by others, as well as offering such protection to the community so that they can enjoy all of the legal rights." [2] The argument is that legal protection is linked to the state's acts to give guarantees for the certainty of a person's or group's rights by (exclusively) enforcing state law. Therefore, the state is obliged to be responsible for providing legal protection to defendants proven innocent in the criminal justice process.

The concept of the legal protection of After the amendment, human rights are controlled in "All people according to "Have the same standing in law and government and are expected to uphold the law and government without exceptions," according to Article 27 paragraph (1) of the Constitution." 1945 Constitution." [3] Furthermore, the principle of *actus non facit reum nisi mens sit rea* can be interpreted as follows: a person cannot be subjected to a crime without any errors or the principle of *actus non facit reum nisi mens sit rea* can be interpreted as follows: a person cannot be subjected to a crime without any errors or the principle of *actus non facit reum nisi mens sit rea* can be interpreted as This is a fundamental principle. is the basic principle for determining the existence of errors (*schuld*) and criminal liability.

The concept of the principle of the presumption of innocence to protect human dignity is also an obligation that must be fulfilled by law enforcement officers at all stages of the criminal law enforcement process, from the investigation, prosecution to judicial processes. According to Article 1 paragraph (1) of the Criminal Code, provisions of contemporary criminal law cannot be used to punish a conduct unless it is based on the basis of the legislation. The contents of this article are known as the legality principle, and they are similar to the presumption of innocence premise, which is philosophically the foundation in the process of enforcing the law for criminal acts.

The presumption of innocence is a manifestation of the (modern) criminal justice function, which delegated violence or retribution to a state-appointed institution, requiring all violations of a person's rights to be handled according to appropriate legal procedures. The application of the principle of presumption of innocence in the judicial trial process means that the spirit of an independent and independent judicial power must be integrated into the entire legislative policy that regulates the entire process of law enforcement power.

Therefore, the task of judges is concretely adjudicating cases, which are basically or essentially interpreting what is often referred to as legal discovery. The judge in giving his decision must give the decision with a sense of full responsibility as an honest, impartial judge, remember the oath of office, remember also his position which is free from implementing power, be careful and thorough as a good judge.

The form of state responsibility for the defendant who was decided by the court was proven not guilty in a criminal case, based on Everyone According to Anyone who is detained, imprisoned, prosecuted, or tried for no reason under the law, or because of a misunderstanding of the person or the law he applies, has the right to compensation and rehabilitation under Article 9 paragraph (1) of Law No. 48 of 2009 on Judicial Power. A suspect, defendant, or convict has the right to claim losses as a result of being arrested, detained, prosecuted, and tried, or subjected to other actions, without any reason based on law or because of an error regarding the person or the law that is applied, according to Article 95 of the Criminal Procedure Code paragraph (1).

In accordance with Articles 95 to 101 of the Criminal Procedure Code, in Criminal Law there are various kinds of compensation, namely;

- a. Compensation for someone who has been held, charged, or tried for no other reason than the law, a mistake about the individual, or an error in enforcing the law.
- b. Compensation to Third Parties or Victims (Victim of Crime).
- c. Compensation for Convicts After Reconsideration.

If a person has been sentenced to a final decision due to a criminal act or offense and if the sentence is finally abolished or a pardon is granted based on the discovery of new or updated facts which show that it can be concluded that there has been an error in the judiciary, the person who has been sentenced as a result of the sentence will be given a compensation according to the law, unless it is proven that the unknown facts are not disclosed, wholly or partly at their own expense.

The regulation of the number of compensation payments, in Government Regulation The According to Law No. 92 of 2015, the Compensation must be depending on the causes specified in Article 77 letter b and Article 95 of the Criminal Procedure Code, at least Rp. 500,000.00 (five hundred thousand rupiahs) and no more than Rp. 100,000,000.00 (One hundred million Rupiahs) The amount of compensation for serious harm or impairment to the point of inability to work caused by the causes stated in Article 95 of the Criminal Procedure Code is at least Rp. 25,000,000.00 (twenty-five million rupiahs) and up to Rp. 300,000,000.00 (three hundred million rupiahs) (three hundred million rupiahs) (three hundred million rupiahs) (three hundred million rupiahs).

If a person dies as a result of a criminal act, the The amount of compensation is set by an amendment to Article 9 point 3, which states: The amount of compensation is set by an amendment to Article 95 of the Criminal Procedure Code, which results in death, the amount of compensation is at least Rp. 50,000. 000.00 (fifty million rup (around 600 million rupiahs) After there is a decision in the form of a determination, then based on the determination the Ministry of Finance immediately makes payments to the interested parties.

3 Conclusion

The obligation of the State to be responsible for providing legal protection to defendants who are proven innocent in the criminal justice process, philosophically, sociologically, and juridically in terms of law enforcement, law enforcement officers who examine cases must not act arbitrarily and must prioritize the principle of presumption of innocence and carry out law enforcement based on the law, upholding human rights and adhering to the principle of "For the sake of Justice."

In the form of state accountability for defendants who are found not guilty in a criminal case, the state is obliged to restore their dignity and is obliged to provide compensation, both material and immaterial.

It is suggested by the author that concerning state accountability to provide legal protection for defendants who are proven innocent in the criminal justice process, considering the existing laws and regulations have not been fully and concretely regulated, then as a form of legal reform and state legal politics it is urgent to revise The Criminal Procedure Code is governed by Government Regulation No. 92 of 2015 and the Criminal Procedure Code are two separate pieces of legislation (Law No. 8 of 1981) Compensation.

References

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