

Enforcement of The Criminal Justice System in Indonesia

Syam Setiawan Haryono¹, Ahmad Redi², Rineke Sara³
syam.setiawan.h.sh@gmail.com, redi.ahmad2010@gmail.com², rineke_sara@borobudur.ac.id³

Universitas Borobudur^{1,2,3}

Abstract. The criminal justice system can be said to have a central position in its application. This is because every decision in sentencing has quite broad consequences. Thus criminal decisions often experience fundamental legal disparities, where this phenomenon can refer to the application of punishment that is not in accordance with the value of criminal objectivity. Besides that, the function of an integrated criminal justice system should ideally be based on the balance between the crime and the offender. Where it is clear that primarily functions as a means of rational crime prevention, and secondary as a means of social control. The disparity in sentencing has a profound impact, both juridically, sociologically and philosophically. This is because the judge's decision has a basic foundation on constitutional balance. Of course, there are many factors that can cause criminal disparities. However, in the end it is the judge who will determine whether the decision constitutes a criminal disparity or not. For this reason, the judge's decision may not be intervened by any party. This study aims to analyze the root causes of legal disparities that occur in Indonesia. And beside Therefore, another goal is to become an appropriate and effective framework in tackling legal disparities in Indonesia by referring to the restorative justice model. For this reason, this research method uses qualitative methods with reference to literature reviews to explain the results of the study.

Keywords: Criminal Law Court, Disparitas Law, Restorative Justice

1. Introduction

The discourse on an integrated criminal justice system has been implemented for a long time, in fact, it can be said that it coincided with the formation of Law No. 8 of 1981 concerning the Criminal Procedure Code. (Since then, the discourse on forming an integrated criminal justice system has been continuously pursued until now. TAP MPR RI No. VII/MPR/2000, concerning the Annual Report of Higher State Institutions, emphasizes, among other things, that the Supreme Court needs to implement the principles of the Integrated Criminal Court.

Assuming the joining in the activity of the framework isn't completed, it is assessed that there will be three misfortunes as follows:

1. difficulties in determining each agency's success or failure in relation to their shared responsibilities.
2. Hardships in taking care of the fundamental issues of every organization (as a subsystem of the law enforcement framework).

3. Each agency pays little attention to the overall effectiveness of the Criminal Justice System because the responsibilities of each agency are frequently not clearly divided.

This can happen if it is supported by synchronization in terms of substance which includes legal products in the field of the criminal justice system which allows all subsystems to work coherently, coordinatively and integratively.[1] Besides that, it is also supported by structural synchronization in each of the criminal justice subsystems such as the police, prosecutors and courts, correctional institutions are also in an integrated functional relationship between the elements of criminal justice including in this case the elements of legal advisers/ advocates and last but not least is cultural synchronization in the sense that there are similar values, views and attitudes shared between the components of the criminal justice system in order to achieve the ultimate goal of the criminal justice system, namely social welfare.[2]

The characteristics of a systems approach in criminal justice are as follows:

1. Concentrate on the synchronization and coordination of components of the criminal justice system (such as the police, prosecutors, courts, and correctional facilities).
2. controlling and monitoring the criminal justice component's use of power.
3. The efficiency of case resolution is less important than the system's effectiveness in preventing crime.
4. the use of the law as a tool to improve the way justice is done. As a result of this strategy, the police, courts, and correctional facilities are no longer considered separate entities; rather, they are all considered integral parts that are interconnected.

2. Research Methods

The exploration utilized is regularizing juridical examination, this standardizing juridical exploration is research gotten from library materials.[3]

3. Theoretical Framework

3.1 System Development And Criminal Justice.

Criminal justice based on the 1981 Criminal Procedure Code must be able to become a system that is able to become a legal basis to anticipate the development of increasingly sophisticated crimes.[4] Criminal statistics show the amount of loss caused by the occurrence of crime. These figures are also not necessarily actual because it is possible that there are many crimes that are not reported to the police, for example rape cases have a high dark number because many families or victims feel embarrassed to report their cases.[5]

The dark number or dark number is the number of crimes that are not revealed for various reasons, one of which is because in many cases when crimes occur the criminal justice apparatus does not respond as a whole.[6] The criminal justice process normally starts operating only when a crime has been reported to the police.[7]

4. Discussion

The construction of criminal law based on the view, suffering or loss of the victim has been discussed which is compensated by the threat of criminal sanctions or the victim's suffering as well as the authority to settle criminal acts in the line of law owned by law enforcement officials is inseparable from the definition of a crime.[8]

The formal procedures that must be followed when resolving criminal cases have been regulated in Indonesia by the order of criminal procedural and sentencing instruments.[9] The criminal justice system is a judicial network that applies criminal law through its primary means, including criminal law enforcement, formal criminal law enforcement, and material criminal law. Beginning from road wrongdoings like homicide, burglary, oppression, etc to what is known as middle class wrongdoing or what is referred to as middle class wrongdoing like debasement, banking violations, etc. Whatever the type and form, crime always causes a strong reaction from society, even the problem of crime now increasingly requires the role of criminologists to contribute their thoughts in the context of crime prevention.

In the criminal justice system, crime occupies a central position.[10] This is because decisions in sentencing have far-reaching consequences, both directly involving the perpetrators of criminal acts and society at large. Moreover, if the criminal decision is considered inappropriate, a "controversial" reaction will arise, because the truth in this case is relative depending on our point of view. A problem can be considered simple, because the problem is actually very complex and contains a very deep meaning, both juridical, sociological, and philosophical. Not only Indonesia, but almost all countries in the world experience what is called "the disturbing disparity of sentencing" which invites attention from the legislature and other institutions that are directly involved in the system of administering criminal law to solve it. What is meant by disparity of sentencing is the application of unequal penalties to the same offenses or to crimes of comparable seriousness without a clear justification.

In going with a choice, the appointed authority may not get mediation from any party. Article 5 passage (1) of Regulation Number 48 of 2009 concerning Legal Power expresses that judges are obliged to investigate, follow, and figure out legitimate qualities and a feeling of equity that lives in the public eye. Law Number 48 of 2009, Article 8 paragraph 2, states that judges may also be required to take into account the accused person's positive and negative characteristics. Historically, before the birth of the systems approach, what was known as the law and order approach or "law and order approach" was based on the principle of legality. However, this law and order approach in practice has led to multiple interpretations for police officers, namely on the one hand the use of law as an instrument of order where criminal law contains legal instruments to maintain order in society and the use of criminal law as a barrier for law enforcement officers in carrying out their duties. In other words, criminal law has the task of protecting individual independence within the framework of a system of social order.

In the Supreme Court Decision No.143K/Pid/1993, proportional sentence is given according to the seriousness of the crime committed. Truth be told, there are rules in the Lawbreaker Code, for example, in Articles 14a, Articles 63-71, and Article 30. When making a decision, the judge must take into account the criminal's mistakes, the motive and purpose for the crime, the perpetrator's socioeconomic condition, the influence of committing the crime, whether the crime was planned, the method of committing the crime, the criminal's curriculum vitae, the perpetrator's socioeconomic condition, the influence on the perpetrator's future, the

victim's future, or the victim's family's future. A rational judge's decision is a decision handed down based on rational considerations, which takes into account the theory of the purpose of sentencing.

In Indonesia, the purpose of punishment must be determined by Pancasila, the source of all criminal law. As a result, Pancasila must inspire criminal intent. A court decision is defined as a statement made by a judge in an open court session, and it can take the form of a conviction, acquittal, or release from all lawsuits in matters and according to the method regulated in this law, as stated in Article 1 point 11 of the Criminal Procedure Code. However, there are many judge's decisions that have not reached justice in society because there are still many innocent people who have been sentenced to criminal sentences or the sentences imposed are not in accordance with their mistakes.

According to Article 12 of the Criminal Code, a judge may choose between the death penalty, life imprisonment, and imprisonment for a certain time, or between life imprisonment and imprisonment for a certain time, as well as in the event that the limit of fifteen years is exceeded due to an additional sentence due to concurrent, repeated, or because it is determined by the origin of Article 52 of the Criminal Code, imprisonment for a certain time may be set aside for twenty consecutive years in terms of crime whose punishment the judge may choose between the death penalty. Imprisonment for a certain time may not exceed twenty years.

In Article 18 of the Criminal Code, what is meant by imprisonment is:

1. Imprisonment for a minimum of one day and a maximum of one year.
2. If the sentence is caused by concurrence or repetition or because of the provisions of Article 52, the sentence of imprisonment can be increased to one year and four months.
3. Criminal Imprisonment can never exceed one year and four months.

In administering the court, a measure that has been accepted by the world of law must be used, namely the principle of legality. The principle of legality guarantees that there is no arbitrariness by judges in determining actions that can be categorized in a formulation of an offense. The formulation of the offense is the basis for further decision making. in Law Number's Article 4, paragraph (2). "The court assists the search for justice and tries to overcome all obstacles and obstacles in order to achieve a simple, fast, and low-cost trial," according to Public Law No. 48 of 2009 regarding Judicial Power.

The coordinated law enforcement framework incorporates sub-subsystems of the police, examiners, courts and restorative foundations (prisons). Other than that, given the rising job, legitimate consultants can likewise be incorporated as a subsystem. Further explained, an integrated criminal justice system is one that is capable of maintaining a balance between the protection of the state's, society's, and individual's interests, including those of criminals and their victims.

The criminal law enforcement system is essentially a system of judicial power in the field of criminal law that is implemented or manifested in four (four) sub-systems, as outlined below:

1. powers granted to investigators by agencies
 2. The public prosecutor's authority to prosecute.
 3. the judiciary's authority to make decisions and adjudicate them.
- the authority of the executing apparatus to implement criminal law.

5. Closing

5.1 Conclusion.

The following is the process in the model of administering restorative justice as follows :

1. Mediation between the perpetrator and the victim is a forum that encourages a meeting between the perpetrator and the victim who is assisted by the mediator as coordinator and facilitator at the meeting.
2. The gathering, in particular the contribution of the settlement, doesn't just include the culprits and casualties straightforwardly, however casualties who in a roundabout way include like the family or dear companions of the people in question and the families and dear companions of the culprits. the justification for the contribution of these gatherings is on the grounds that they might be straightforwardly or by implication impacted by the crook acts that have happened or they have a high worry for and interest in the result of the thoughts and they can partake in looking for the outcome of the cycle and its definitive objective.
3. a restorative justice implementation model with the most participation than the two previous models, namely a forum where community members who feel they have an interest in the situation, in addition to victims, perpetrators, families, or mediators.

When the fundamental model for implementing the restorative justice approach is essentially a variant of the dialogue model, which is the application of the deliberative and consensus model. The restorative justice approach is actually an elaboration of the idea of deviation in the Criminal Code Provisions which still has deficiencies, especially in the big case of whether restorative justice is possible. So it needs improvement so that this approach can be accepted by all who have a legal interest in Indonesia.

5.2 Suggestion.

Law enforcers, especially the police, must work together with customary institutions or customary police who have the right to impose criminal penalties in the form of compensation or existing legal rules. the laws of a country.

This indicates that if in Indonesia this approach is to be used as part of a criminal case settlement mechanism, then the existing criminal justice system must be adapted to accommodate a criminal case settlement mechanism through this approach. If a restorative approach is implemented, It is necessary to promote a more humane approach to dealing with criminal acts, placing an emphasis on and giving priority to the restorative justice approach in comparison to formal legalistic considerations. This is in accordance with the idea that there are irregularities in the Criminal Code.

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