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INTEGRATED CRIMINAL JUSTICE SYSTEM MODEL IN INDONESIA

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Abstract

This study aims to analyze the Integrated Criminal Justice System in Indonesia. The method used is a research library. The results show that the Criminal Justice System is essentially identical to the criminal law enforcement system and is also identified with the judicial power system in the field of criminal law which is manifested in four sub-systems, namely: (1) Investigative power by the investigating institution; (2) Power to prosecute by the procuring agency; (3) The power to judge / impose a decision by a judicial body, and; (4) The power to implement criminal law by the executing apparatus. The four stages / sub-systems constitute an integral criminal law enforcement system, and are often referred to as the integrated criminal justice system. Understanding the real integrated criminal justice system or SPPT, not only understanding the concept of "integration" itself, but an integrated criminal justice system also includes a substantial meaning of the symbolic urgency of an integrated procedure but also touches the philosophical aspects of the meaning of justice and benefit in an integrated manner.

Keywords: Justice, System, Criminal, Integrated, Indonesia

1. INTRODUCTION

The State of Indonesia is a State of Law, in which the concept of a State of law is emphasized in Article 1 paragraph 3 it is written "Indonesia is a State of law", as the juridical basis for the State of Indonesia as a State of law is stated in Article 1 paragraph (3) of the 1945 Republic of Indonesia Constitution (the third amendment), which reads: "The State of Indonesia is a State of Law", The concept of a rule of law leads to the goal of creating a democratic life, and protecting human rights, as well as just welfare." Therefore, all citizens must submit and obey the applicable law. Wignjosobroto[1] indoctrinate the rule of law is "a state that organizes all life in it based on rules of life that have been formally positive as laws".[2]

As a consequence of a rule of law state, all activities and actions of the state must be based on law. Aristotle formulates that a rule of law is a state that stands above the law which guarantees justice to its citizens. According to AV Dicey, there are 3 (three) principles that must be implemented in a rule of law state, namely: (1) supremacy of law; (2) Equality before the law, and (3) Human rights. In the process of law enforcement, there are several factors that influence the success of its implementation, namely:[3] (1) Law; (2) Law enforcers; (3) Facilities or facilities that support law enforcement; (4) Society; and (5) Culture.

In addition to the existence of a set of laws and regulations, the driving instruments are also needed. The driving instrument is law enforcement institutions and their implementation through work mechanisms in the Criminal Justice System. Judicial power in the field of criminal law includes all authorities in enforcing criminal law, namely investigative powers by investigative bodies/agencies, prosecution powers by public prosecutorial bodies/institutions, adjudicating powers by judicial institutions, and powers of executing decisions/criminals by correctional bodies/institutions.[4]

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Examined from the perspective of the Criminal Justice System, in Indonesia there are 5 (five) institutions that are sub-systems of the Criminal Justice System. The terminology of the five institutions is known as the Five Houses of Law Enforcement, namely the Police, Prosecutors, Courts, Correctional Institutions and Advocates.[5] In the Criminal Justice System, which culminates in a judge's "decision" or "verdict", in essence it is studied from a theoretical perspective and judicial practice often creates disparities in terms of sentencing (sentence of disparity) and also correlates with "criminal policies". The context of "policy" in criminal law comes from the terminology policy (English) or politiek (Dutch). These are general principles that function to direct the government (in a broad sense including law enforcement) to manage, regulate or resolve public affairs, community problems or the field of drafting laws and regulations and allocating laws/regulations with the aim of realizing prosperity. People (citizens).[6]

Juridically and factually, the sub-systems of the Criminal Justice System as a judicial institution that has a law enforcement function, are not under one roof under the judiciary. The general study of the nature of institutions, including subsystem institutions in the criminal justice system, there are 2 (two) main elements that are interrelated and cannot be separated from one another, between institutions as organs and functions. An institution as an organ is its form or container, while its function is its contents, namely the movement of the container according to the purpose of its formation. Institutions of the criminal justice sub-system (police/investigators, prosecutors/prosecutors and correctional institutions/criminal executors) as "their" organs are executive instruments, while their function is to carry out the implementation of criminal law enforcement, together with the judiciary is the backbone of judicial power. The above studies show that there is no synchronization between the dimensions of organs and functions which can cause many problems that lead to suboptimal performance of the criminal justice system.[7]

2. DISCUSSION

1. Overview of the Criminal Justice System

Romli Atmasasmita[8] defines the criminal justice system as a term that denotes a working mechanism in overcoming crime by using a basic systems approach. As a criminal justice system, there are three approaches, namely normative, administrative and social approaches. The normative approach views the four law enforcement apparatus (police, prosecutors, courts and correctional institutions) as implementing institutions of applicable laws and regulations so that these four apparatus are an inseparable part of the law enforcement system alone.[9]

The criminal justice system is a judicial network that uses criminal law as its main means, both material criminal law, formal criminal law and criminal law. However, this substantial institution must be seen within a social framework or context. Its nature is too formal if it is based only for the sake of legal certainty will lead to injustice.[10] The Criminal Justice System is then seen as a result of the interaction between laws and regulations, administrative practices and social attitudes or behavior. Understanding this system implies an interaction process, which is prepared rationally and efficiently.[11]

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The Criminal Justice System is also understood as a working mechanism in overcoming crime using the basis of the system. This mechanism is basically the result of interaction between laws and regulations, criminal justice administration practices, attitudes of social behavior, and a rational system, all of which provide certain results with all its limitations. In addition, the Criminal Justice System is also referred to as the crime control system which consists of the Police, Prosecutor's Office, General Court and Corrections.[12]

Remington and Ohlin define the criminal justice system as the use of a systems approach to criminal justice administration mechanisms and criminal justice as a system is the result of interaction between laws and regulations, administrative practices and social attitudes or behavior.[13] The objectives of the criminal justice system include the following:[14]

a. Prevent people from becoming objects/victims.
b. Resolving criminal cases that have occurred so that the community is satisfied that justice has been upheld and the guilty have been punished.
c. Ensure that those who have committed crimes do not repeat their crimes.

The principles of criminal justice include the following:

(a) The principle of justice is fast, simple and low cost

Actually this is not a new thing with the birth of the Criminal Procedure Code. From the beginning, since the existence of the HIR, this principle has been implied in words that are more concrete than those used in the Criminal Procedure Code. The inclusion of speedy trial (contante justitie; speedy trial) in the Criminal Procedure Code is quite a lot that is embodied by the term "immediate". The principle of speedy, simple and low-cost justice adopted in the Criminal Procedure Code is actually an elaboration of the Law on Basic Provisions for Judicial Power. Speedy trials (especially to avoid long detention before a judge's decision) are part of human rights. Likewise in a free, honest and impartial trial which is highlighted in the law.

The general explanations set out in many articles in the Criminal Procedure Code include the following:[15]

1) Article 24 paragraph (4), Article 25 paragraph (4), Article 26 paragraph (4), Article 27 paragraph (4), and Article 28 paragraph (4). In general, in the articles, the general explanation described in many articles in the Criminal Procedure Code includes the following:29 1. Article 24 paragraph (4), Article 25 paragraph (4), Article 26 paragraph (4), Article 27 paragraph (4), and Article 28 paragraph (4). In general, these articles contain provisions that if the detention period as stated in the previous paragraph has passed, the investigator, public prosecutor and judge must have released the suspect or defendant from detention for the sake of law.
2) Article 50 regulates the right of suspects and defendants to be immediately informed clearly in a language they understand about what is alleged to be them at the time the examination begins.

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3) Article 102 paragraph (1) states that an investigator who receives a report or complaint about the occurrence of an event that is reasonably suspected of being a crime is obliged to immediately carry out the necessary investigation.
4) Article 106 states the same thing above for investigators.
5) Article 10 paragraph (3) states that in the event that a crime has been investigated by the investigator referred to in Article 6 paragraph (1) letter b, the results of the investigation are immediately submitted to the public prosecutor through the investigator referred to in Article 6 paragraph (1) letter a.
6) Article 110 regulates the relationship between the public prosecutor and the investigator, all of which are accompanied by the word immediately. Likewise Article 138.
7) Article 140 paragraph (1) states that: "in the event that the public prosecutor is of the opinion that from the results of the investigation a prosecution can be carried out, he shall make an indictment as soon as possible".

(b) The principle of the presumption of innocence

The essence of this principle is quite fundamental in criminal procedural law. The existence of the provisions on the principle of "presumption of innocence" can be seen in Article 8 paragraph (1) of Law Number 48 of 2009 and its general explanation number 3 letter c of the Criminal Procedure Code which stipulates that:[16] "everyone who is suspected, arrested, detained, prosecuted, and/or presented before a court must be considered innocent before a court decision states his guilt and has obtained permanent legal force." In judicial practice, the manifestation of this principle can be explained further, as long as the judicial process is still ongoing (district court, high court, supreme court) and has not yet obtained permanent legal force (inkracht van gewijsde), then the defendant cannot be categorized as guilty of a crime so that During the criminal justice process, they must obtain their rights as regulated by law.

(c) The principle of opportunity

The formulation of the opportunity principle is as follows:[17] "The legal principle that gives authority to public prosecutors to prosecute or not prosecute with or without conditions a person or corporation that has committed an offense in the public interest."

(d) The principle of court examination is open to the public

At the head of this subparagraph it is clearly written "trial examination", which means that preliminary examination, investigation and pretrial are open to the public. In this case, we can also pay attention to Article 153 paragraph (3) and paragraph (4) of the Criminal Procedure Code which reads as follows: Paragraph (3) "for the purpose of examining the judge the chairman of the trial opens the session and declares it open to the public except in cases concerning decency or the defendant is a child - child." Paragraph (4), namely "Failure to comply with the provisions in paragraph (2) and paragraph (3) results in the cancellation of the decision by law." In the explanation of paragraph (3) it is stated quite clearly, and for paragraph (4) it is even more emphasized, namely: "The guarantee stipulated in paragraph (3) above is

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strengthened, as evidenced by the emergence of legal consequences if the principle is not fulfilled."

(e) The principle is that everyone is treated the same before the judge

The criminal procedural law does not recognize forum priviligiatum or special treatment, because the Indonesian state as a rule of law recognizes that humans are equal before the law (equality before the law).[18] As stipulated in Article 4 paragraph (1) of Law number 48 of 2009 and the general explanation number 3 letter a of the Criminal Procedure Code, namely "the court shall judge according to law without discriminating between people".

(f) The principle of a suspect/defendant is entitled to legal assistance

Articles 69 to 74 of the Criminal Procedure Code regulate legal aid in which the suspect/defendant has very wide freedom. These freedoms include the following:

1) Legal assistance can be given from the moment the suspect is arrested or detained.
2) Legal aid can be provided at all levels of examination.
3) Legal advisers can contact the suspect/defendant at all levels of examination at each level.
4) Discussions between legal advisers and suspects were not heard by investigators and public prosecutors except for state security offenses.
5) Minutes of demands are given to the suspect or legal adviser for the sake of defense.
6) Legal advisers have the right to send and receive letters from suspects/defendants.

(g) The principle of direct and verbal examination of judges

In principle, in practice, the examination of criminal cases before the trial is carried out by the judge directly to the accused and witnesses and carried out orally in Indonesian. Strictly speaking, Indonesian criminal procedural law does not recognize the examination of criminal cases by proxy and written examination.

2. Integrated Criminal Justice System (Integrated Criminal Justice System) In Indonesia

Integrated Criminal Justice System needed in the criminal justice system for the implementation and implementation of criminal law enforcement which involves agencies which each have their own functions. Law enforcement that contains a proportional principle is how law enforcement works in such a way, so that it not only upholds normative rules (aspects of legal certainty) but also philosophical aspects (aspects and values of justice), which in this case aims to achieve proportional law enforcement. Media and instruments are needed called the justice system.[19]

The criminal justice system is essentially synonymous with the criminal law enforcement system and is also identified with the judicial power system in the field of criminal law which is manifested in four sub-systems, namely:[20]

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(1) Investigative powers by investigative agencies;

(2) The power of prosecution by the prosecution agency;

(3) The power to adjudicate/determine decisions by the judiciary, and;

(4) The power to implement criminal law by the executing apparatus.

The four stages/sub-systems constitute an integral part of the criminal law enforcement system, and are often referred to as the Integrated Criminal Justice System.[21] An understanding of the real integrated criminal justice system or SPPT, is not only an understanding of the concept of "integration" itself, but an integrated criminal justice system that also includes the substantial meaning of the symbolic urgency of integrated procedures but also touches on philosophical aspects regarding the meaning of justice and benefits in an integrated manner. . So that the enforcement of material criminal law which is guarded and framed by the norms of laws and regulations which become the area of procedural criminal law, can be closer to the principles and substance of law enforcement in upholding justice and law enforcement with dignity.[22]

The criminal justice system in Indonesia consists of material criminal law and formal criminal law. The Indonesian criminal justice system adheres to the concept that criminal cases are disputes between individuals and society (the public) and will be resolved by the state as a representative of the public. The dispute itself is related to several substances in the articles that have been regulated and is subject to punishment in material criminal law, which is currently determined in the Criminal Code and outside the Criminal Code.[23]

The enactment of Law No. 8 of 1981 concerning the Criminal Procedure Code (KUHAP) has resulted in fundamental changes, both conceptually and in implementation, to the procedures for settling criminal cases in Indonesia. This law is a substitute for the Het Herziene Inlandsch Regement Staatsblad of 1941 number 44 which is considered no longer in accordance with the ideals of national law. If the contents of Law No. 8 of 1981 concerning the Criminal Procedure Code are carefully examined, then in the Integrated Criminal Justice System Indonesia uses four components of law enforcement officials, namely the police, prosecutors, courts and correctional institutions.[24]

Components of the criminal justice system as one of the supporters or instruments of a criminal policy, including legislators. Components in the criminal justice system both in the perspective of knowledge regarding criminal policy (Criminal Policy) and in the practice of law enforcement in criminal law consist of: elements of the Police, Prosecutor's Office, Courts and Correctional Institutions. These agencies each stipulate laws in their fields and authorities. Such a view of the implementation of the criminal law system is called the steering model (stuur model). Related in this case are parts of activities in the framework of law enforcement,[25]

Components in the criminal justice system are expected to work together to form an "integrated criminal justice system". The meaning of the integrated criminal justice system is synchronization or simultaneity and alignment which can be distinguished in:[26]

1) Structural synchronization is synchronization and harmony within the framework of relations between law enforcement agencies.

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2) Substantial synchronization is the simultaneity and harmony that are vertical and horizontal in relation to positive law.

3) Cultural synchronization is the simultaneity and harmony in the understanding of views, attitudes and philosophies which as a whole underlies the running of the criminal justice system. Alignment and linkages between sub-systems with one another are links in a single unit. Where in every problem in one of the sub-systems, it will have an impact on the other sub-systems so that in this case it will cause a reaction as a result of an error in one of the sub-systems which will have an impact on the other sub-systems. The integration between the sub-systems can be obtained if each sub-system uses criminal policy as a guideline for its work, therefore the components of the criminal justice system cannot work without being directed by criminal policy.

In relation to the criminal justice system, the components referred to consist of 4 (four) components, namely the Police, Prosecutors' Office, Courts, and Correctional Institutions. These four components have been regulated in Law Number 8 of 1981 concerning Criminal Procedure Code (KUHAP). However, in its development, the birth of Law No. 18 of 2003 concerning Advocates has become an important legal basis for the advocate profession as one of the pillars of law enforcement, so that there is " advocate" which was added as a component of the criminal justice system so that now there are 5 (five) components in the criminal justice system. Each component must pay attention to other components that work in the same system as a whole.[27]

In this case, it is necessary to clarify the authority possessed by each institution and the limits in implementing this authority as follows:

(1) Police

Police is the first and main subsystem in SPP. According to Harkristuti Harkrisnowo, the position of the police institution is the gate keeper of the criminal justice system. The law gives authority to the police to enforce the law in various ways, from preventive to repressive ways in the form of coercion and prosecution. The duties of the police within the scope of penal criminal policy are in the realm of applicable policies, namely the realm of criminal law which tends to be repressive.[28]

(2) attorney

In the criminal justice system, the prosecutor's office will work after there is a delegation of cases from the police. The Criminal Procedure Code emphasizes that the prosecutor is a public prosecutor who is authorized by law to prosecute and implement the judge's decision. The duties and authorities of the Attorney General's Office of the Republic of Indonesia are normatively affirmed in Article 30 of Law no. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, which states that the Attorney's Office has duties and authorities in the fields of criminal, civil and state administration, and participates in organizing activities in the field of public order and peace.

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Seeing the provisions of Article 30 of Law no. 16 of 2004 basically the prosecutor's office has the authority to carry out its duties in 3 (three) different jurisdictions. Regarding criminal cases, the prosecutor's office can conduct investigations not only in general criminal cases but can also carry out investigations in certain criminal acts. The authority of the prosecutor's office in conducting investigations into certain criminal cases is regulated in several laws and regulations, including: Law no. 26 of 2000 concerning the Human Rights Court, Law no. 31 of 1999 concerning the Eradication of Corruption as amended by Law no. 20 of 2001, and Law no. 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes. The Attorney General's Office as controller of the case process or dominus litis has a central position in law enforcement.

(3) Court

The court is the place where the judicial process takes place, the authority to hold a trial lies with the judiciary. Regulated in Law no. 48 of 2009 concerning Judicial Power. Based on Article 10 of the Law on Judicial Power, the court has the authority to examine, hear and decide on a case that is brought before the court. In the trial process, the judge leads actively according to the active system of judges in criminal procedural law.

(4) Correctional Institution

Correctional institutions are the final subsystem of the criminal justice system. Based on Article 1 point 1 of Law no. 12 of 1995 concerning Corrections, Correctional is an activity to carry out coaching for Correctional Families based on systems, institutions, and methods of coaching which are the final part of the punishment system in the criminal justice system.

(5) advocate

Birth of Law No. 18 of 2003 concerning Advocates is an important legal basis for the advocate profession as one of the pillars of law enforcement. This is confirmed in Article 5 paragraph (1) of Law no. 18 of 2003, which states that advocates have law enforcement status, are free and independent which are guaranteed by law and statutory regulations.

In the Explanation of Article 5 paragraph (1) of Law no. 18 of 2003 it is further emphasized that what is meant by "advocates with the status of law enforcement, free and independent guaranteed by law and legislation" is an advocate as one of the instruments in the judicial process who has an equal position with other law enforcers in enforce law and justice.

3. CONCLUSION

The criminal justice system is a judicial network that uses criminal law as its main means, both material criminal law, formal criminal law and criminal law. The criminal justice system is essentially identical with the criminal law enforcement system and is also identified with the judicial power system in the field of criminal law which is manifested in four sub-systems, namely: (1) investigative powers by investigative agencies; (2) The power of prosecution by the prosecution agency; (3) The power to try/determine decisions by the judiciary, and; (4) The power to implement criminal law by the executing apparatus.

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The real Integrated Criminal Justice System is not only an understanding of the concept of "integration" itself, but an integrated criminal justice system that also includes the substantial meaning of the symbolic urgency of integrated procedures but also touches on philosophical aspects regarding the meaning of justice and expediency. Integrated manner. So that the enforcement of material criminal law which is guarded and framed by the norms of laws and regulations which become the area of procedural criminal law, can be closer to the principles and substance of law enforcement which simultaneously upholds justice and law enforcement with dignity.

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