

THE DEVELOPMENT OF THE CRIMINAL JUSTICE SYSTEM IN INDONESIA

Dede Kusno Adi¹; Hadi Purnomo²

Langlangbuana University, Bandung, Indonesia^{1,2}
Email : dedekusnoadi@gmail.com

ARTICLE INFO

ABSTRACT

Article history:

Received : Dec 30, 2022

Accepted : Feb 20, 2023

Published : Mar 31, 2023

Keywords:

Criminal justice system

Criminal law experts and experts in "criminal justice" introduced the criminal justice system for the first time in the United States along with dissatisfaction with the operation of law enforcement agencies and apparatus, which are based on a law and order approach. The Crime Control Model, the Due Process Model, the Family Model, and the Integrated Model are some of the well-known models of criminal justice in the literature.

INTRODUCTION

Background

Criminal justice can be seen as a coordinated effort of various law enforcement organizations. Investigation, prosecution, trial, and execution of the judge's decision by the penitentiary are gradual steps in the criminal justice system. In essence, sequential procedures result in the intended common goal. Each institution is a subsystem that is connected to and influences other institutions as the entire process operates within a system. As Alan Coffey notes, the criminal justice system consists of functional elements or subsystems, each of which must relate to each other and work together.

"Criminal justice can function systematically only to the degree that each segment of the system takes into account all other segments. In order words, the system is no more systematic than the relationships between Police and prosecution, Police and Court Prosecution and Corrections, Corrections and law, and so forth. In the absence of functional relationships between segments, the criminal justice system is vulnerable to fragmentation and ineffectiveness" (M. Faal, 1991: 25).

Therefore, if a successful criminal justice system is to be achieved, fragmentation in the sense that each subsystem operates independently and does not pay attention to the interaction between subsystems must be avoided. In this regard, it is important to consider Hiroshi Ishikawa's Integrated Approach concept, which emphasizes that the components of a function, although they perform various roles and can stand alone (diversity), must share a common vision and understanding in order to work as a whole (unity) and support each other. In this regard, Hiroshi Ishikawa claims that:

"Criminal justice agencies including the police, prosecution, judiciary institutions should be compared to a chain of gears, and each of them should be precise and tenacious in maintaining good combination with each other" (M Faal, 1991: 26).

The idea of systems was presented in the 1958 Pilot Project report, and Frank Remington was the first person in the United States to bring criminal justice administration engineering using a systems approach. The term "Criminal Justice System" was then used for this concept and the system of criminal justice administration. The Presidential Crime Commission then coined and popularized this word (Romli Atmasasmita, 1996: 8). Alfred Blumstein served as chairman of the Commission's Task Force on Science and Technology, which created the schematic diagram of the "Criminal Justice System". Blumstein, a management specialist, applied managerial strategies based on a systems approach to the criminal justice administration system. Since then, a systems approach to crime has been established. (Atmasasmita, 1996: 9).

According to Kadish, management, social and normative perspectives can all be used to explain the criminal justice system. The three types of approaches are distinct yet interdependent; in fact, the three techniques interact to determine standards of success in crime prevention. There are three approaches to the criminal justice system, according to Geoffrey Hazard Jr, namely the normative approach, the administrative approach, and the social approach. (Atmasasmita, 1996: 17-18). The four law enforcement agencies (police, prosecutors, courts, and correctional institutions) are seen with a normative approach as institutions that implement relevant legislation, making them an integral part of the overall law enforcement system. According to the organizational structure used in the organization, the administrative approach sees law enforcement as a management organization with a working mechanism that includes horizontal and vertical linkages. The system used is the management system. According to the social perspective, society as a whole is blamed for how well or badly the four law enforcement agencies perform their duties because they are seen as an integral part of the social system. The social system is the system in use.

Criminal Justice Models

In order to provide criminal justice, many models have emerged in the United States. It should be noted that the model used here is a value system based on observations of the criminal justice system in many countries, not a system that has been adopted by a country. Herbert L. Packer provides an introduction to models of criminal justice implementation, especially in the United States. Based on his observations, it has been confirmed that the Due Process Model and Crime Control Model are the two criminal process models used in the implementation of criminal justice in the United States. The Adversary Model, which contains the following features, serves as the basis of these two models.

- The legal process must be a legal battle or legal battle between the prosecution and the defendant, both of whom have equal standing before the court;
- The judge's role as referee means that the judge is not present in the "fight" during the examination in the courtroom. He or she functions solely as a referee who prevents the defendant or prosecution from breaking the rules;
- The main purpose of criminal justice procedures is to resolve disputes resulting from crime;
- Parties or contestants have clear independent roles for them. The prosecution's job is to present the charges, and the defendant's job is to deny or challenge them. The defendant is tasked with determining which facts will be presented at trial that will benefit his position by presenting other evidence to support these facts. The Crime Control Model is based on the assumption that the administration of criminal justice is solely to suppress criminal behavior (criminal conduct), and this is the main purpose of the judicial process, because what is prioritized is public order and efficiency (Ansorie Sabuan et al, 1990: 6).

The criminal process is essentially a battle or even a war between two interests that cannot be reconciled, namely the interests of the state and the interests of the individual (defendant). What is known as the "presumption of fault" and the "quick way" in eradicating crime for the sake of efficiency apply here. In practice, this model has the disadvantage that human rights violations often occur for the sake of efficiency. In the Due Process Model, new values have emerged that were previously overlooked, namely the concept of protecting individual rights and limiting power in the administration of criminal justice. The criminal process must be controlled to prevent abuse of power and authoritarianism in order to achieve maximum efficiency.

The important principle, the presumption of innocence, applies in this scenario. The two models proposed by Packer above are based on the idea of the relationship between the state and the individual in the criminal process, which views the criminal as an enemy of the society (enemy of the society), whereas the main purpose of punishment is to expel criminals from society (exile function).

John Griffiths claims that both models are philosophically based on the war model (Battle Model) as well as conflicts between the state and irreconcilable people (irreconcilable disharmony of interests), so that if a crime is committed, the perpetrator must be processed. immediately made an object in the criminal justice system. Muladi expressed his opinion on the models of the criminal justice system as follows: Crime Control Model: ineffective because it emphasizes the use of

repressive measures in the implementation of the criminal justice system. Legal process model: not entirely favorable due to the makeup of "anti-authoritarian values". (Muladi, 1995: 5).

In addition to the three criminal justice system models mentioned above, several efforts have been made to create what is known as an integrated criminal justice system or integrated criminal justice system in the current development of the system. Muladi asserted that the goal of this integrated criminal justice system is synchronization, which can be divided into three categories: structural synchronization, substantive synchronization, and cultural synchronization. Structural synchronization is the appearance and harmony in the framework of relationships between law enforcement agencies, substantial synchronization is the appearance and harmony that is vertical and horizontal in relation to positive law, while cultural synchronization is the appearance and harmony in living the views, attitudes and philosophies that thoroughly underlie the course of the criminal justice system (Muladi, 1995: 1-2).

In the integrated criminal justice system model, institutions or agencies working in law enforcement, although their tasks are different and internally have their own objectives, but in essence each subsystem in the criminal justice system cooperates with each other and is bound to the same goal. This can happen if supported by adequate legislation, which allows all subsystems to work coherently, coordinatively and integratively. Legal arrangements that do not guarantee the relationship between subsystems as mentioned above, will cause fragmentation in law enforcement and lead to "agency centricity" which is very unlikely to realize an integrated criminal justice system.

The Japanese criminal justice system, which has the following characteristics, can be used to study an integrated model of criminal justice delivery. Law enforcement officers have access to an adequate education system that allows them to share the same perspective when performing their responsibilities. Common law justice is the goal to be achieved, and is known as "proper justice". It is conducted by lawyers' organizations in Japan to select candidates to become judges, prosecutors, and lawyers in the administration of criminal justice, and after they graduate, they enter the same education program supervised by the Supreme Court of Japan.

LITERATURE

- Ansorie Sabuan, Criminal Procedure Law, Angkasa, Bandung, 1990. Herbert L. Packer, The Limit of Criminal Sanction, California: Stanfords University Press, 1968.
- M Faal, Screening of Criminal Cases by the Police (Discretionary Policing), Pradnya Paramita, Jakarta, 1991.
- Muladi, Kapita Selektta Sistem Pidana, UNDIP Publishing Board, Semarang, 1995.
- Romli Atmasasmita, 1996, Criminal Justice System (Perspective of Existentialism and Abolitionism), Binacipta, Bandung, 1996.