

THE IMPACT OF CHANGES IN THE CRIMINAL CODE ON THE LAW ENFORCEMENT SYSTEM IN INDONESIA

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ABSTRACT

The processes of the criminal justice system can be referred to as a subsystem of the criminal justice system, because they are related to the desire for the same goal, namely law enforcement. The ambiguity of Indonesian legal principles can have a similar impact on the processes of the Indonesian criminal justice system. The approach used in the preparation of this article is normative juridical, which is a method by examining legal provisions and presenting all the information and data obtained, both primary and secondary data, and providing a clear and systematic description.

Criminal law applies where possible, for example where other parts of the law are not sufficient to enforce the norms recognized by law. As a last resort, the threat of punishment must be maintained. In fact, dealing with all kinds of criminal threats. Any sane person would understand without further explanation. In the end, the nature of criminal law demands punishment as a last resort when other means can be used to achieve the goals set out in the 2023 Criminal Code.

Changes to the law enforcement system aim to align Indonesia's law enforcement system with the principle of legality or the principle of opportunity. The opportunity principle in the Indonesian law enforcement system aims to align with the criminal objectives of the 2023 Criminal Code which are heavily influenced by the principle of restorative justice. Changes in the Indonesian law enforcement system have several implications for the Indonesian criminal justice system, including settling cases out of court as a last resort

INTRODUCTION

As a system, law is a series of components that are directly or indirectly related to each other and form a certain pattern. The legal system referred to here is the Indonesian substantive legal system, namely the legal system applicable in Indonesia. A system is generally understood as a unity composed of interconnected and interacting elements that form a whole and reasonable unity. The legal system is essentially a formal structure, but if we talk about the Indonesian legal system, then the formal structure refers to the existing legal principles and the principles behind them, which in turn are based on and influenced by the 1945 Constitution .

The processes of the criminal justice system can be referred to as subsystems of the criminal justice system as they are all designed to achieve the same goal of law enforcement. The general rules for these cases are set out in KUHAP No. 11. Law No. 8 of 1981 which became the Criminal Procedure Code (KUHAP). The mention of KUHAP 8 Year 1981 is not without reason. One of the subsystems of the criminal justice system is law enforcement. Law enforcement is based on principles that are recognized worldwide as the basis of law enforcement. KUHAP does not directly define whether Indonesia follows a legality-based policing system or an opportunity-based

policing system. An important distinction between the principle of legality and the principle of due process is that the prosecutor's duty is to resolve every case filed. The vagueness of Indonesia's legal principles may have a similar impact on the procedures of Indonesia's criminal justice system.

The public prosecutor is obliged to prosecute all cases submitted to the public prosecutor, but may postpone or suspend prosecution of cases conducted by the public prosecutor who is the head of the public prosecution. The dismissal or removal of prosecutors by the Attorney General for various reasons as stipulated in the Criminal Procedure Code and the Criminal Procedure Code has sometimes become a huge controversy.

Problem Formulation

- What is the impact of changes to the criminal code on law enforcement in Indonesia?

Purpose of Writing

- To find out the impact of changes in the criminal code on law enforcement in Indonesia.

RESEARCH METHODS

Approach Method

In researching this article, the author uses a normative juridical approach method, which describes all information and data clearly.

Research Specifications

In preparing this article, the author uses descriptive analytical research specifications, which is a method that aims to provide a description of the object under study without analyzing it.

Data Source and Collection

In preparing this article, the author uses library data sources, namely procedures carried out by reading, reviewing, and quoting various information from books, journals and laws and regulations.

DISCUSSION

Alternative out-of-court settlement

Under Articles 30 and 16 of the Prosecutor's Office Act 2004, the Attorney General has three main duties and powers. These are criminal sector duties and powers, civil sector duties and powers and public authorities. Administrative and field service duties and powers. For the sake of public order and security. According to the provisions of Article 30 of Law No. 16/2004 on Public Prosecutions, public prosecutors have neither the obligation nor the authority to settle (criminal) cases out of court. The power of the Public Prosecution Service to settle cases out of court is exercised by the Public Prosecution Service only in the context of representing the state in civil or state administrative matters.

The situation was different when the Attorney General exercised his duties and powers under Public Prosecution Law No.2. However, in the era of this law, prosecutorial duties covered four areas of activity. Specialized areas relating to the administrative responsibilities of the legal system. The four areas include:

- Formal dispute resolution through the courts.
- Informal dispute resolution with out-of-court settlement.
- Conflict prevention field.
- It now covers non-conflict law in the criminal field.

The prosecutor's office is only authorized:

- adherence to law and order;
- implementing judges and court decisions that are legally binding.
- Control the implementation of conditional sentences, conditional imprisonment and conditional application.

- Investigation of criminal offenses under the law.
- Completing certain files and conducting further research before submission to the court.

The fact that the prosecution did not reach an out-of-court agreement certainly violates the principle of last resort in criminal law. Van Bermelen believes that criminal justice is a last resort. Apply criminal law where possible, for example where other parts of the law are insufficient to enforce legal sanctions. The threat of punishment should be used as a last resort, even in response to various criminal threats. Any reasonable person would understand without further explanation. This does not mean eliminating the risk of crime, but the costs of crime must always be weighed so that the medicine given is not more harmful than the disease .

Restoration of Conditions in Society

The purpose of humans living in society is to produce an orderly and peaceful life together. By living in interaction, humans get the opportunity to fulfill basic needs or primary needs which include, among others, safety of life and property, fulfillment of clothing and food, self-esteem, potential for development and love and affection . In essence, communication between humans is to realize an ideal, namely to organize a harmonious and happy life.

The above experiences result in positive and negative values, so humans must adhere to what is good and what is bad to avoid abstract concepts. This system of values and norms greatly influences people's mindset and is a spiritual norm. This attitude forms the principles of mutual recognition, mutual maintenance and mutual obedience in society, so that people can live in an orderly and fast manner. Thus, values and norms are standards and guidelines for correct and appropriate behavior or conduct in society.

Penal Code 2023 stipulates that the purpose of this penalty is to:

- Prevent criminal offenses by strengthening legal norms to protect society.
- Socialize prisoners through coaching to become good and helpful individuals.
- Resolve conflicts resulting from criminal acts, restore social balance and create a sense of peace.
- Freedom from convicted guilt. and
- Forgive those who are cursed.

Ultimately, the nature of criminal law demands punishment as a last resort when other means can be used to achieve the objectives set out in the Criminal Code 2023. Out-of-court settlement of disputes arising from this crime is certain, according to both parties. If the perpetrator and the victim agree, the convicted person is automatically released because the victim has forgiven him. Punish It is possible to bring peace to society and return it to the state it was in before the crime.

Assisting in the Resolution of Social Problems

One of the impacts of the changes in the criminal law system is the tendency of law enforcers to settle cases outside the process, which certainly helps problems in the field sector of society. Currently, there are serious problems in Indonesia's prison system, such as a mismatch between prison capacity and prison capacity, and problems with prison procedures. Delaying the prosecution of cases can alleviate prison management problems. Also, for minor crimes punishable by imprisonment of up to three years, especially if the perpetrator is a child in the imitative mental stage and recognizes that the perpetrator is himself, it is likely that he will carry out the task.

The impacts described above, namely out-of-court settlements, community-based remedies and amnesties for defendants, and handling prison issues involve a community-based criminal justice system and in this case the public. This view is certainly different from the prevailing view that the criminal justice system is narrowly interpreted as law enforcement, not as a means of law enforcement.

A review of the law enforcement system that places the case in the hands of law enforcement and decides to prosecute. Criminal charges will test the tenacity, honesty, empathy, dedication, commitment, courage, and conscience of the prosecutor. People are an important part of the criminal justice system for law enforcement, but they are not the only means of the criminal justice system .

CONCLUSION

The conclusion that can be drawn by the author in the description above is that as a different law enforcement system, it has the same impact on the criminal justice system. Changes to the law enforcement system aim to harmonize the Indonesian law enforcement system with the principle of legality or the principle of opportunity. The principle of opportunity in the Indonesian law enforcement system aims to harmonize with the criminal objectives of the Criminal Code 2023 which is heavily influenced by the principle of restorative justice. Changes in Indonesia's law enforcement system have several implications for Indonesia's criminal justice system, including out-of-court settlements as a last resort.

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