

EFFORT OF INDONESIAN CRIMINAL JUSTICE SYSTEM INTEGRATED TO REDUCE OVERCAPACITY

Fitriandifa Rizka Ardi¹, Pujiyono²

¹Diponegoro University

JL. Imam Bardjo, S.H., Kampus Pleburan. Semarang, Jawa Tengah, 50241, Indonesia
Telp./Fax: +62-853-74416844 E-mail: fitriandifarizka@gmail.com

²Diponegoro University

JL. Imam Bardjo, S.H., Kampus Pleburan. Semarang, Jawa Tengah, 50241, Indonesia
Telp./Fax: +62-853-74416844 E-mail: pujifhundip@yahoo.com

Submitted: Feb 12, 2022; Reviewed: Jun 02, 2022; Accepted: Jun 13, 2022

Abstract

The process of the criminal justice system has a filtering characteristic in order to neutralize an act, whether it can be resolved only by an administrative process or has to go to the criminal stage in its application where the hope is that a process can run and be better systemized. In this regard, the Application of the Integrated Indonesian Criminal Justice System in Reducing Over Capacity and the Integrated Process of the Indonesian Criminal Justice System in Reducing Over Capacit. This research used normative juridical research method. the success of the judicial system in achieving its objectives, including the legal culture of power and society, political, economic, social, science and technology development, education and so on. In the criminal justice system, there are three forms of approach, namely: a normative approach containing four law enforcement officers (police, prosecutors, courts, and correctional institutions), an administrative approach, viewing the four law enforcement officials as a management organization that has a working mechanism, both horizontal and which is vertical. Based on this, the cultural value in its application provides a sense of moral value and justice for the running of a process in justice. The application of restorative justice can also be carried out in order to support the application of system integration as well as in terms of the process where not only the police, prosecutors, courts and prisons play a role but also the emergence of cultural values in society.

Keywords: *Criminal Justice System; Integration; Over Capacity*

INTRODUCTION

A system in which a set of integral units becomes a system in which one system with other systems must integrate into a unified whole approach procedure where there is a stage administrative mechanism for enforcement. In comparison, the ap-

proach elements interact to achieve specific goals. The need to implement organizational systems in the imposition so that the crime becomes the last means, an act that cannot forgive or cause harm. The concept of law as a legal text in its application originates from a methodological syllo-

gism, structured in a logical deductive syllogism so that the subjectivity of ethical-moral values in deductive-logical logic. Court decisions are nothing more than conclusions from the deduction of the text of the law on concrete events in a case. Fair and unfair considerations become very relative because the judge's legal argument ends in a logical conclusion of deduction, which emphasizes legal certainty, ignoring moral values. Justice. The judiciary should carry out social functions by moving the courts to resolve community problems, not just implementing laws and regulations that emphasize legal certainty.¹

Must apply that in a democratic criminal justice system, two central values must uphold, namely, first, "professed values" which are proclaimed such as equality before the law, independent judicial power, fair and just judiciary, non-discrimination, etc., and second, "underlying values" which, although not openly proclaimed, still control all actions in the criminal justice system.² [Muladi, 2020:56] Based on these two stages, we can also apply it so that a criminal jus-

tice system does not cause overcapacity as in the table below, where the first table is a database from correctional institutions located in each regional office and calculated into one data in the archipelago.

Table 1. Total Capacity Lembaga Pemasyarakatan³

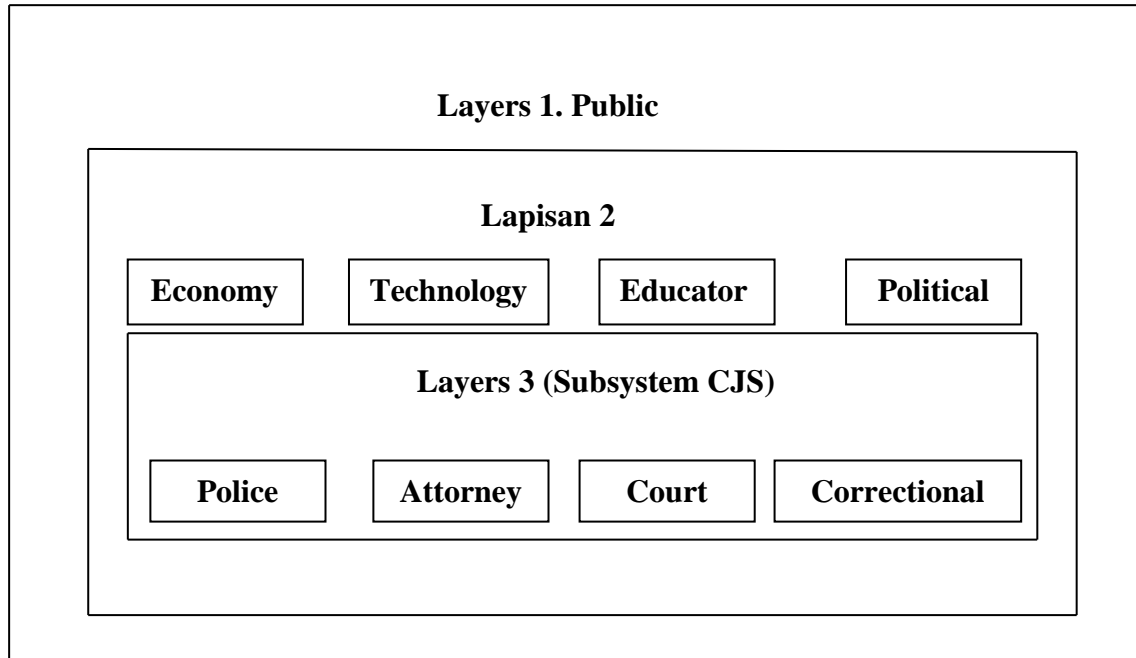
N o	Work Unit	To- tal	Ca- pacity	% Over Ca- pacity
1	Su- matera Island	75,0 05	44,683	1.938
2	Nusa Tengga- ra Island	2,71 9	1,518	215
3	Jawa Island	71, 633	52,346	1,015
4	Kali- mantan Island	25,9 05	12,012	989
5	Sulawe- si Island	15,9 79	17,211	788
6	Maluku Island	1,06 1	2,010	74
7	Papua Island	747	1,078	92

¹ J.Pajar Widodo, *Reformasi Sistem Peradilan Pidana Dalam Rangka Penanggulangan Mafia Peradilan*, Vol. 12, No. 1, 2012, pp. 2.

² Muladi, Diah Sulistyani, *Catatan Empat Dekade Perjuangan Turut Mengawa Terwujudnya KUHP NASIONAL (Bagian I, 1980-2020)*, Semarang Press, Semarang, 2020, pp. 56

³ Direktorat Jendral Pemasyarakatan "Laporan Sistem Data Base Pemasyarakatan <http://smslap.ditjenpas.go.id/public/grl/current/monthly/kanwil/2020/12>, diakses pada tanggal 28 Desember 2020.

Table 2. Layers In The Criminal Justice System⁴



⁴ Mardjono Reksodiputro, *Sistem Peradilan Pidana*, Rajawali Pers, Depok, 2020.

Based on the table, referring to the components of the respective sub-systems that exist, both from the police, prosecutors, courts, correctional institutions, the sub-systems (institutions) should pay attention to the signs as outlined by Kenneth J. Peak, namely the necessity to the existence of adequate standard facilities such as basic legal rules, the absence of overlapping duties and authorities, the presence of coordination between sub-systems, and training for system controllers, as well as the existence of a supervisory mechanism for the court functions of the existing system.⁵ Based on this information, in this case, it is necessary to implement an integrated criminal justice system so that there is no overlapping criminal justice system between one system and another. And in a criminal justice system process, there is a filtering nature in which to neutralize an act, whether it can be completed only by the administrative process or must go to the criminal stage in its application where the hope is that a process can run and be systemized for the better.

METHOD

This study used normative juridical research methods. It uses positive law and is classified for further in-depth analysis by exploring the basic principles, values, and norms contained in the research. And look at the rules and regulations for sure to find the level of synchronization. This analysis is carried out qualitatively through a deductive reasoning analysis.

ANALYSIS AND DISCUSSION

Implementation of an Integrated Indonesian Criminal Justice System in Reducing Over Capacity. According to Soerjono Soekanto, a benchmark for the ineffectiveness of the law must show the factors that affect the effectiveness of a law application, namely, legal factors themselves, law enforcement factors, facilities or facilities factors, community, and cultural factors. A structured formulation of criminal justice system policies can be created to minimize the occurrence of overcapacity in correctional institutions.⁶ The government is given the power to determine approaches to create public order through a criminal law policy (penal policy). The application can be carried out based on penal mediation that enters and

⁵ I Gede Winartha Indra Bhawana, *Independensi Dan Impartialitas Hakim Perspektif Teoritik-Praktik Sistem Perdilan Pidana*, Vol. 5, No. 1, 2016, pp. 4.

⁶ Ilham Panunggal Jati Darwin, *Implikasi Over Capacity Terhadap Lembaga Pemasyarakatan Di Indonesia*, Vol. 3, No. 2, 2019, pp. 6.

becomes part of discussions at the international level, among others at the 9th United Nations congress in 1955 and the 10th congress in 2000 regarding "prevention of crime and the treatment of offenders." In addition, an International Conference 1. on Criminal Law Reform (International Penal Reform Conference) was held in 1999. The results of the international meeting then encouraged the birth of international instruments on mediation in criminal cases as a consequence of the emergence of the concept of restorative justice, including:

1. The Recommendation of the Council of Europe 1999 No. R (99) about *Mediation in Penal Matters*;
2. The EU Framework Decision 2001 about "*The Standing of Victims in Criminal Proceedings*," dan;
3. The UN Principles 2002 (draft Ecosoc) about *Basic Principles on Restorative justice Programs in Criminal Matters*.

Based on the information above, it is also known that another reason that encourages penal mediation procedures in criminal cases is the idea of "restorative justice." Barda Nawawi Arief said the relationship pattern between disciplinary policy and efforts to combat crime. He

emphasized that crime prevention and control must be used with an integral approach, and there is a balance between "penal and non-penal." and cultural and management approaches.⁷

The criminal justice system is indeed expected to overcome the crime problem so that it is within the limits of community tolerance. This system is considered successful if most of the reports and complaints of the public who are victims of crime can be "resolved" with the submission of an (integrated) criminal justice system, which can have an internal or external dimension. Inner dimension if the attention is directed to the integration of the judicial subsystem, such as the police, prosecutors, courts, and correctional institutions. Meanwhile, the external dimension is due to its almost inseparable relationship with the more comprehensive social system. The latter will significantly affect the success of the judicial system in achieving its objectives, including here the legal culture of power and society, political, economic, social developments, science and technology, education, and so on. An example of legal culture of power is the tendency to politicize law or legal instrumentalization both in making laws

⁷ Taddy Lesmana, *Mediasi Penal Sebagai Alternatif Penyelesaian Perkara Pidana Dalam Perspektif Pembaharuan Sistem Peradilan Pidana Indonesia*, Vol. 1, No. 1, 2019, pp. 9-10.

and in law enforcement practices. Barda Nawai Arief thinks that criminal law enforcement is abstract, and the second is the enforcement of criminal law in concreto. In the abstract, the enforcement of criminal law is the stage of making/formulating (formulating) regulations by the legislature, called the legislative stage. The enforcement of criminal law in concreto consists of the application/application stage and the law's implementation by law enforcement officials, which can be called the judicial stage and the execution stage.⁸

Based on this, if we apply the provisions of the regulation with the existence of law enforcement where the quality of the law is determined by the ability to serve human welfare. This is where law enforcement in a progressive legal approach adheres to the existence of a pro-justice legal ideology and pro-people law. With this ideology, the dedication of the perpetrators of the law gets the principal place to make a recovery. Legal actors must prioritize honesty and sincerity in law enforcement, the interests of the people (its welfare and happiness) being the point of orientation and the ultimate goal

of law enforcement.⁹ The state is a law enforcement officer who is sharp in slicing the ice and becomes a catalyst for the rescue that many expect. It is not just a facilitator but requires progressive law enforcement (affirmative action). So the state's position in the context of dispute resolution should be shifted from its neutral and passive position, must take sides with the interests of the ordinary people, and actively enforce the law. The classic adage, *fiat Justitia ruat caelum*, uphold justice even though the sky falls.¹⁰

The Process of an Integrated Indonesian Criminal Justice System in Reducing Over Capacity. In the criminal justice system, there are three approaches, namely: a normative approach containing four law enforcement officers (police, prosecutors, courts, and correctional institutions), an administrative system, viewing the four law enforcement officers as a management organization that has a working mechanism, both horizontal and vertical. Vertical by the prevailing organizational structure in which the system is administrative, and a social approach which views the four law enforcement officers as an inseparable part of a social system so that

⁸ Vivi Ariyani, *Kebijakan Penegakan Hukum Dalam Sistem Peradilan Pidana Indonesia*, Vol. 6, No. 2, 2019, pp. 10.

⁹ Satjipto Rahardjo, *Teori Hukum (strategi tertib manusia lintas ruang dan generasi)*, Genta, Yogyakarta, 2019, hlm. 190.

¹⁰ Suteki, *Desain Hukum di Ruang Sosial*, Thafa Media, Yogyakarta, 2013, hlm. 280.

the community is also responsible for the success or failure of the four law enforcement officers in carrying out their duties.¹¹ The case of criminal justice reform must be carried out due to critical societal and institutional norms, each of which requires careful analysis of complex local issues.¹²

So that an integrated criminal justice system process can be carried out based on the stages of the criminal justice system process, where;¹³

So that an integrated criminal justice system process can be carried out based on the stages of the criminal justice system process, where;

- a. The police stage, in this case, the end of police duties in investigations, reflects the objectives of criminal justice and the protection of human rights as well as a sense of moral responsibility for efforts to achieve order and justice and legal certainty, it is necessary to increase cooperation or functional coordination between the two parties. There is operational

coordination between the police and the prosecutor's office in the criminal justice process due to the judicial process as a system. The consequence is that each institution and apparatus working in the criminal justice process is not partial or departmental-oriented, prioritizing the sectoral success of each part of the system.

- b. In the prosecutor's stage, where the termination of the prosecution can be carried out under Article 140 paragraph (2) letter a of the Criminal Procedure Code, the trial is terminated by the public prosecutor with the consideration that there is insufficient evidence or the incident does not constitute a criminal act, or the case is closed for the sake of the law. In this case, it does not mean that the termination will result in the release of a person from lawsuits but only temporary. This means that the case will be continued if new evidence is found. Termination of prosecution does not mean negating or putting aside words, as is meant by opportunity. The ending of prosecution is related to the loss of the right of the trial, as included in Articles 77 and 78 of the Criminal Procedure

¹¹ Nyoman Satyayudhadananjaya, *Sistem Peradilan Pidana Terpadu(Integreted Criminal Justice System) di Kaji Dari Perspektif Sub Sistem Kepolisian*, Vol. IX, No. 1, 2014, pp. 4.

¹² Taufik Muhammad, *the global three: a malaysian lens on the challenges and oppourtunities facing restorative justice planning and implementation*, school of social sciences, universiti sains malaysia, Volume. 72, september 2018, page. 1.

¹³ Kadri Husin dan Budi Rizku Husin, *Sistem Peradilan Pidana Di Indonesia*, Sinar Grafika, Jakarta, 2016, pp. 103- 126.

Code, namely the death of the suspect/defendant's rights and the expiration of the prosecution's right. (Husin, 2016:206)

- c. Legal efforts to reject the court's decision, namely;
 - 1) Legal remedies can be by filing an appeal to the high court submitting a cassation request to the supreme court if you are not satisfied with the high court's decision.
 - 2) Examination of appeals, in Article 67 of the Criminal Procedure Code (the right of the accused) in this case the existence of a crime control model (CCM) in which an appeal is deemed unnecessary because the examination process at the district court level is the result of a rigorous examination process in an organizational framework that is characterized by profession of law enforcement.
 - 3) Examination of cassation is regulated in Articles 244 to 258. In Article 253 paragraph (1) of the Criminal Procedure Code, a regulation is not implemented or not appropriately

applied. The way to try is not carried out according to the provisions of the law. The court has exceeded the limit of authority. In this case, the cassation is justified because it recognizes the possibility of an error (error) in the criminal justice process as stated in Article 253 paragraph (1) of the Criminal Procedure Code. in this case, the value of the judiciary must be based on the law or applicable laws (due process mode).

- 4) Extraordinary legal remedies, examination of cassation in the interest of law, review of decisions.
- d. The implementation of the judge's decision, in the case of the decision, must know whether the decision on deprivation of independence that was handed down was carried out correctly and based on the principles of humanity and fairness, especially from the officers who must carry out the decision so that the achievement of the means is to return the convict to a

- good member of society. and obey the law. (Husin, 2016:122]
- e. Supervision and observation of the implementation of court decisions and such control will bring the court (judge) closer to the prosecutor's office and correctional institutions. The judge must know whether the decision on deprivation of liberty was handed down or appropriately implemented and based on the principles of humanity and justice, especially from the officer who carried out the decision.
 - f. The correctional institution stage, in reality at this time, due to the limited facilities for places of detention for suspects or defendants, who should be detained in the state detention house (Rutan), then in practice, the correctional institution also functions as a state detention house.
 - 1) In this case, the social function of the prison is the results of the assessment that are encouraged to provide efforts in the form of granting remission or release from the society.
 - 2) The relationship between the correctional institution and the community, where the efforts of resocialization begin with creating a "resocialization culture" "This will also not work if society as a social environment does not have cultural values. The integration of the criminal justice system is reflected in the integration of the criminal justice subsystems above. [Husin, 2016:125-126]
- Pre-trial aims to protect human rights against violations of formal and material requirements carried out at the level of investigation, investigation, and prosecution as regulated in Law Number 2981, significantly articles regarding arrest, detention, search, confiscation, examination of letters, and regarding legal aid. Miriam Budiarjo stated that human rights are rights owned by humans that have been obtained and under them at the same time as their birth in public life. It is considered that some of these rights are owned without distinction based on nation, race, religion, gender and therefore are universal. Koentjoro Poerbapranoto stated that human rights are rights that humans have according to their nature which cannot be separated from their essence so that they are sacred. When examined etymologically, rights are normative elements that

function as behavioral guidelines, protect freedom, immunity and guarantee opportunities for humans to maintain their dignity. While what is meant by human rights means the most fundamental. Thus, human rights represent the most basic rights possessed by humans as nature so that no creature or anyone can intervene in them, let alone revoke them. For example, the right to life in which no human has the authority to take another human's life.

CONCLUSION

In terms of implementing an integrated criminal justice system, it can be done using penal or non-penal and the running of an administrative system in its application. Cultural values in their application provide a sense of moral value and justice for the passage of a process in the judiciary. The application of restorative justice can also be carried out to support system integration implementation. In this case, to realize the construction of the application, there is law enforcement that can help the realization of an appropriate application process to minimize the occurrence of overcapacity in terms of the process of an integrated criminal justice system to reduce the occurrence of overcapacity, namely by screening so that a case concerning human rights, justice, and

one's morals does not enter the realm of court. In this case, of course, the police, prosecutors, courts, and correctional facilities play a role and the emergence of cultural values in society so that a prisoner does not feel isolated in his domicile. When a process is running, one should also look at whether a case needs human rights protection so that there are no overlapping rules. So that a system can run according to its provisions. This is also an essential step so as not to cause overcapacity in correctional institutions.

BIBLIOGRAPHY

Book :

- Anwar, Yasmil dan Adang, *Sistem Peradilan Pidana*, Widya Padjadjaran, Bandung, 2009, hlm. 60.
- Husin, Kadri dan Budi Rizku Husin, (2016). *Sistem Peradilan Pidana Di Indonesia*, Sinar Grafika, Jakarta, 2016.
- Muladi, Diah Sulistyani, (2020). *Catatan Empat Dekade Perjuangan Turut Mengawa Terwujudnya KUHP NASIONAL (Bagian I, 1980-2020)*, Semarang Press, Semarang.
- Rahardjo, Satjipto, (2019). *Teori Hukum (strategi tertib manusia lintas ruang dan generasi)*, Genta, Yogyakarta.

- Reksodiputro, Mardjono, (2020). *Sistem Peradilan Pidana*, Rajawali Pers, Depok.
- Suteki, (2013). *Desain Hukum di Ruang Sosial*, Thafa Media, Yogyakarta.
- Pujirahayu, Esmi Warassih, Derita Prapti Rahayu, Faisal, (2020). *Sosiologi Hukum* (suatu pengantar dimensi hukum dan masyarakat), Litera, Yogyakarta, 2020, hlm. 151-152.
- Kaligis, O.C, (2006). *Perlindungan Hukum atas Hak Asasi Tersangka, Terdakwa, dan Terpidana*, PT Alumni, Bandung.
- Peratura perundang-undangan/Dokumen :
Pasal 1 Undang-undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia, Tambahan Lembaran Negara Republik Inonesia Nomor 3886.
- Journal :**
- Ariyani, Vivi, (2019). *Kebijakan Pene-gakan Hukum Dalam Sistem Peradi-lan Pidana Indonesia*, Vol. 6, No. 2.
- Bhawana, I Gede Winartha Indra, (2016). *Independensi Dan Impartialitas Ha-kim Perspektif Teoritik-Praktik Sis-tem Perdilan Pidana*, Vol. 5, No. 1.
- Criminal Justice System*) di Kaji Dari Perspektif Sub Sistem Kepolisian, Vol. IX, No. 1.
- Darwin, Ilham Panunggal Jati, (2019). *Implikasi Over Capacity Terhadap Lembaga Pemasyarakatan Di Indo-nesia*, Vol. 3, No. 2.
- Faisal, Fatma, (2019). *Eksistensi Pen-ngadilan Hak Asasi Manusia Ter-hadap Penegakan Hak Asasi Manu-sia Dalam Sistem Peradilan*, Vol. 2, No. 1.
- Falasifah, Umi, (2016). *Tinjauan Pembaharuan KUHAP Sebagai Landasan Bekeranya Sistem Peradilan Pidana Di Indonesia Penlisan Hukum*, Vol. 5, No. 3.
- Harefa, Syafruddn, (2018). *Kebijakan Kriminal Dalam Menaggulangi Kelebihan Kapasitas Lembaga Pemasyarakatan*, Vol. 5, No. 2.
- Hutabarat, Rugun Romaida, (2017). *Problematika Lembaga Pemasyara-katan Dalam Sistem Peradilan Pi-danana Terpadu*, Vol. 1, No. 1.
- Lsmana, Taddy, (2019). *Mediasi Penal Sebagai Alternatif Penyelesaian Perkara Pidana Dalam Perspektif Pembaharuan Sistem Peradilan Pi-dana Indonesia*, Vol. 1, No. 1.
- Muhammad, Taufik, (2018). *the global three: a malaysian lens on the chal-lenges and oppourtunities facing re-storative justice planning and im-plementation*, school of social sci-

- ences, universiti sains malaysia, Volume. 72.
- Putra, Angga, (2015). *Pembaharuan Sistem Peradilan Pidana Melalui Penataan Administrasi Peradila*, Vol. IV, No. 3.
- Widodo, J.Pajar, (2012). *Reformasi Sistem Peradilan Pidana Dalam Rangka Penaggulangan Mafia Peradilan*, Vol. 12, No. 1.
- Sumber Online :
Direktorat Jendral Pemasyarakatan
“Laporan Sistem Data Base Pemasyarakatan
<http://smslap.ditjenpas.go.id/public/grl/current/monthly/kanwil/2020/12>, diakses pada tanggal 28 Desember 2020.
