

THE LAXITY OF CRIMINAL LAW ENFORCEMENT IN INDONESIA
AND EFFORTS TO OVERCOME IT

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Abstract

The laxity of criminal law enforcement lied in the surveillance function in criminal justice management system and civil law culture. Effort needed to be done by empowering functions of broader Supreme Court surveillance, not only surveillance that proceeding in the court but also surveillance from all criminal law enforcement process. Beside that for the sake of actualizing justice in the society, civil law culture required to be used broad interpretation and always updated legal reform.

Abstrak

Kelemahan penegakan hukum pidana terletak pada fungsi pengawasan dalam sistem manajemen peradilan pidana dan budaya hukum perdata. Upaya perlu dilakukan dengan memberdayakan fungsi pengawasan Mahkamah Agung yang lebih luas, tidak hanya pengawasan yang berjalan di pengadilan tetapi juga pengawasan dari semua proses penegakan hukum pidana. Selain itu, demi mewujudkan keadilan di masyarakat, budaya civil law perlu ditafsirkan secara luas dan reformasi hukum yang selalu diperbarui.

INTRODUCTION

Common people who approaching law enforcement just interpret law enforcement in criminal law area. This statement is not wrong, because many cases are informed in law enforcement which delivered to the society through newspapers, television, radio, magazine and many more dominated cases or criminal cases such as murder, corruption, pornography, money laundry, thievery, misappropriation, embezzlement, rape, domestic abuse, defamation, extortion, bribery and many more. Law enforcement actually is not only criminal law but also civil law, constitutional law, state

administrative law, labor law and many more. However, related law is exiguous which become public spotlight or society. Whereas this is no less important with criminal cases. The limitation of this study is on law enforcement level in criminal law area which more known as criminal justice system.

Criminal justice can be interpreted as a process which works in several law enforcement agencies. Meanwhile criminal justice system can be represented as Criminal Justice System is a system of criminal justice process, each component function consists of the constabulary as an investigator, attorney as public prosecutor, judiciary as the adjudicate side and correctional institution which function to re-popularize the condemned, which work together, integrated in an effort to achieve a common goal which overcome crime¹.

Based on certain explanation above that criminal justice system involves several components or elements which are constabulary as investigator or the cutting edge of the criminal justice system, attorney as prosecutor, judiciary as investigator and breakers and correctional institution as place of formation for lawbreakers.

1. Constabulary has the task of receiving a report and complaint from the public if a crime occurs, carry out an investigation and criminal act investigation, to perform screening towards case submitted to attorney, report investigation result to attorney and ensure protection toward the parties related to criminal justice process.
2. Attorney has screening task of case worthy of filing to judiciary, prepare prosecution files, to prosecute and to execute adjudication.
3. Judiciary has function of accepting case file from the attorney, to perform case review efficiently and effectively and also to execute fairest decision.
4. Correctional institution has function in operating adjudication, to protect convicted criminal rights, to perform efforts of improving and preparing convicted criminal as well as possible to return to the community.

The implementation of criminal justice system in Indonesia often occurs difference perception between one sub system to another sub system in resolving the case. For the example, in one side of the constabulary and attorney have tried hard to find evident so that the suspect can be detained and transferred to judiciary as a suspect. Nevertheless, after entering the judiciary, judge examine and finally release the suspect (refer to Illegal Logging Case, AdelinLis was released by district court), drug cases (which minor conviction).It is even feared if this happens resulting in the cessation of a criminal process, for example if aristocracy of investigation field no longer want to re-investigate in revealing a case or revealing the real culprit, for example case of "Marsinah", death case of Bernas Reporter "Udin", case of "Lanjar" in Karanganyar, where there was someone estimated as member of Indonesian's police who crashed into Lanjar's wife coincidence hitchhike Lanjar (her husband) she bounced off to the middle of the road as a result of the sudden braking of the motorcycle. Lanjar actually braked the motorcycle caused by the vehicle in front of him also braked suddenly. The bounced of Lanjar's wife into the middle of the road did not necessarily die. Which caused Lanjar's wife death was most likely caused by someone who crashed it. However, in case file which was made by the Indonesian's police was not including someone who crashed it ²Described above are only several criminal law enforcement examples, the actual case is very much that the researcher does not show. To find justice in Indonesia apparently is very hard to be obtained. How could this happen? According

¹Faal M, 1991,*PenyaringanPerkaraPidana Oleh Polisi*, Jakarta: PT. Pradnya Paramita, halaman 24 -25

² M, Taufiq. 2012. *MahalnyaKeadilan Hukum (Belajar Dari KasusLanjar)*. Surakarta: MT & P LAW Firm (Muhammad Taufiq & Partner). JISonggoRunggi 17 A Laweyan Surakarta.

to researcher's observation, there are two laxities that caused such as concerning the surveillance function in criminal justice management system and civil law culture system.

So far, the pursuit of criminal law enforcement at the level of investigation, prosecution, examination in court and in prisons is only legal certainty, without paying attention to the sense of justice. So that if an act violates formal law, then the perpetrator will definitely be processed through investigation, prosecution, examination in court and finally executed in the correctional facility. Actions that violate formal law are not only criminal acts that carry a fairly severe punishment, but also criminal acts that carry a light sentence. Actually, not all cases have to be resolved by court. MarjonoReksodiputro said that the use of criminal law must be selective, meaning that not every violation is processed through the criminal justice system. Things that are not serious in nature can be resolved outside the criminal justice system, especially cases that are still at the level of investigation³. Efforts are made to attempt to resolve many cases of minor criminal acts at the investigation level through penal mediation or outside the criminal justice system because there is an agreement between the two parties, namely the victim and the perpetrator, because the victim wants to apologize to the perpetrator and on the contrary the perpetrator wants to fulfill the demands of the party victims and are facilitated by a mediator, usually the police. However, if there is no agreement between the two parties, this case or case must be resolved through the criminal justice system, because positive law is not possible. Likewise at the level of case examination in court, judges cannot do much to decide a case fairly, because positive law does not provide sufficient space for judges to create justice. In the case of theft of the Supreme Court decision No. 653 K / Pid / 2011, which is controversial, many things can be revealed in order to create a sense of justice in society. Most of the community members want the perpetrators not to be punished, considering that the harm caused is not so much. However, for law enforcement officials, especially judges, not giving sentences is not that easy, because there are rules that need to be considered in order to uphold legal certainty.

The implementation of criminal justice system in Indonesia often occurs difference perception between one sub system to another sub system in resolving the case. For the example, in one side of the constabulary and attorney have tried hard to find evident so that the suspect can be detained and transferred to judiciary as a suspect. Nevertheless, after entering the judiciary, judge examine and finally release the suspect (refer to Illegal Logging Case, AdelinLis was released by district court), drug cases (which minor conviction).It is even feared if this happens resulting in the cessation of a criminal process, for example if aristocracy of investigation field no longer want to re-investigate in revealing a case or revealing the real culprit, for example case of "Marsinah", death case of Bernas Reporter "Udin", case of "Lanjar" in Karanganyar.

This decision is a decision that has been a long time ago, but it needs to be raised to explain that the decision at the top to seek justice is mostly oriented towards legal certainty that does not pay attention to the sense of the silliness of the community. This Supreme Court decision is actually an ordinary decision and often appears in law enforcement, from the level of investigation, prosecution, examination and decisions in court to execution in prisons or prisons. What often comes up is the case of traffic accidents on the highway. Included in this discussion is the case of a traffic accident on the highway in the Colomadu area of Karanganyar Regency which was experienced by brother LanjarSriyanto. LanjarSriyanto is a human being who daily works as a construction worker, who supports his wife and child who live in the Colomadu area. This story

³MardjonoReksodiputro. 1994. *Kriminologi dan SistemPeradilanPidana*. Jakarta: Center for Justice and Legal Service of Universitas Indonesia, halaman 146.

begins when Lanjar's brother went out on his motorbike with his wife and child driving east to the city of Solo. While traveling on the highway, brother Lanjar tried to overtake a Suzuki brand car, but at the same time he was about to overtake the car, he braked suddenly as a result of which Lanjar's brother crashed into the car, Lanjar and his son were thrown to the left of the road and injured while his wife was knocked to the right of the road and also wound. However, not long after, there was an Isuzu Panther car from the opposite direction which was later discovered to be belonging to a police officer from Ngawi and rammed into Lanjar's wife. As a result of the collision, LanjarSaptaningsih's wife died.

After seven days of his wife's funeral, Lanjar intended to take care of his motorcycle which was detained by the police, but strangely Lanjar could not take care of his motorcycle, instead he was presented with an investigation report (BAP) related to his case as a suspect charged under Article 359 of the Criminal Code, namely because of his negligence or negligence. death of another person, which carries a maximum sentence of five years. According to IptuRuriPrastowo's statement, the determination of Lanjar as a suspect has fulfilled the criminal element as referred to in Article 359 of the Criminal Code, because Lanjar was considered negligent so that an accident occurred. The driver of the panther car that crashed and caused the death of Lanjar's wife could not be recognized as a defendant on the pretext of negligence. At that time the driver had tried to swerve to avoid the victim, but because the distance between the victim who was bounced and the car was only one meter, the incident was beyond the driver's ability. In fact, brother Lanjar braked on such a vehicle because the vehicle in front of him also suddenly braked. The throwing of Lanjar's wife in the middle of this road does not mean that she will die. The cause of the death of Lanjar's wife was most likely caused by someone who hit it. However, the case file prepared by the Police does not include the person who hit it⁴.

Then there is another example regarding the handling of criminal acts of theft which the losses are not that great, namely the Supreme Court decision no. 653 K / Pid / 20112, who punished Rasminah's grandmother, brought a lot of debate among community members. Most of the community members wanted Rasminah's grandmother not to be punished or exempt from punishment, because the value of the damage caused was not so great. Meanwhile, other groups of community members, particularly law enforcers, stated otherwise. Regardless of the value of the loss incurred from the crime, it must still be punished. The debates that arise in the community seem to bring benefits to more attention regarding this case. The Supreme Court is concerned about the Rasminah case and other similar cases, for example the case of mbokMinah who stole three cocoa pods, the case of AAL who was the sandal thief, the watermelon thief in East Java and others whose losses were not large. The Supreme Court's attention to these cases is the issuance of the Supreme Court Regulation No. 02 of 2012 concerning the Adjustment of Limits for Minor Crimes and the Amount of Fines in the Criminal Code which took effect on 27 February 2012. The emergence of this regulation was in order to adjust the value of money contained in the Criminal Code because since 1960 all the value of money contained in the

⁴ M. Taufiq . *Op. Cit.* halaman 22 – 23.

Criminal Code has never been adjusted with current conditions. The current price adjustment of gold has increased by 10,000 times compared to 1960. If the value of money contained in the Criminal Code is adjusted to current conditions, this could have implications for the use of the Article 362 of the Criminal Code for criminal acts regulated in Article 364 of the Criminal Code. In addition, the handling of cases of minor criminal acts such as petty theft, petty fraud, light embezzlement and the like can be handled proportionally considering the threat of a maximum sentence of three months in prison, and suspects or defendants cannot be subject to detention, and the examination procedure used is an examination procedure. fast. In addition, these cases cannot be filed for cassation. Furthermore, the provisions in the Perma state that the words "two hundred and fifty rupiah" in Articles 364, 373, 379, 384, 407 and Article 482 of the Criminal Code are read as Rp. 2,500,000.00 (two million and five hundred thousand rupiah); in accepting the delegation of a case of theft, fraud, embezzlement, admonition from the public prosecutor, the chairman of the court is obliged to pay attention to the value of the goods or money that are the object of the case; if the value of the goods or money is not more than IDR 2,500,000.00 (two million five hundred thousand rupiah) the Chief Justice will immediately assign a Sole Judge to examine, hear and decide the case by a Quick Examination Procedure as regulated in Articles 205-210 of the Criminal Procedure Code.

SURVEILLANCE FUNCTION IN CRIMINAL JUSTICE SYSTEM MANAGEMENT

In the Criminal Justice System, fragmentation must be avoided, which each sub system working alone without paying attention to the other sub. To avoid this according to Hiroshi Ishikawa required integrated approach concept: components function even though the function was different and stood alone but must had one same perception so that was an integrated whole which bounded and one purpose, which was to overcome, to prevent, to foster and to reduce criminal act or criminal law violation. For example: both Indonesia and Malaysia are anti-drugs, however the countermeasure policy are different, so that criminal sanctions are also different. Keep in mind that between police, prosecutor, Malaysia's Judge have same vision on criminal politics regarding to narcotics. To realize Hiroshi Ishikawa's desire is not easy. According to Muladi, the purpose of criminal justice system is for short-term: resocialization and rehabilitation of criminal offender, for long-term: social welfare⁵. While MardjonoReksodiputro said that criminal justice system was considered succeed if there were report or society complaint that they had become victim from a crime that can be resolved by submitted by the perpetrator to the court and accepted criminal⁶. Therefore, coverage of system tasks is broad indeed, such as:

1. To prevent society become crime victim.

⁵Muladi. 1995. *KapitaSelektaSistemPeradilanPidana*. Semarang: Publicer Agency of Universitas Diponegoro. Halaman 2.

⁶MardjonoReksodiputro. *Op. Cit.* halaman 140.

2. To resolve occurred crime, so that society is satisfied with justice that has been upheld and the guilty convicted.
3. Attempt to make they who ever committing crime no longer repeats their actions.

Furthermore, according to Bassiouni, the purposes of criminal justice system are⁷:

1. Community maintenance orderly,
2. Citizens protection from crime, unjustified loss or dangers which is done by other people,
3. Resocialization of lawbreakers.
4. Maintain and preserve the integrity of certain fundamental views regarding to social justice, human dignity and individual justice.

Moreover, Ted Honderich stated that the use of criminal law must really be considered and as economical as possible, therefore it needs to be required:

1. The criminal really prevents.
2. The criminal does not cause more dangerous circumstances /harm than will happen if the criminal was not imposed.
3. There is no other criminal which can prevent effectively with danger/smaller loss.

This is in line with Jeremy Bentham statement which stated that criminal do not use if groundless, needless, unprofitable or inefficacious. The use of criminal law or criminal justice system must be selective that not all violations proceeded through criminal justice system. Not serious or minor case characteristics can be solved beyond criminal justice system, for the example minor offense is administrative fined adequate or very summary case can be done coaching, for example, left to parent or given strict warning, cases that are still being investigated especially. MardjonoReksodiputro stated that principles adopted by our criminal law was not coercive or rigid in the sense that not all criminal case must be law proceeded. Not all of the criminal case must be solved through justice process, however it can be solved by using other methods such as mediation, discretion, coaching, forgiving and many more in investigation level especially.

From the explanation above it is certain that criminal justice system relates sub investigation, sub examination in judiciary and sub correctional institution. The purposes of this four components so

⁷Barda Nawawi Arief. 1994. *Kebijakan Legislatif Dalam Penanggulangan Kejahatan Dengan Pidana Penjara*. Semarang: CV. Ananta. Halaman 43.

that can be achieved work mechanism needs to be regulated from each sub system. Work mechanism will not work either without supervision.

There should be supervisory agency from subs system in criminal justice system, but the reality is subs system have its own authority which cannot be controlled by the other party. It gives the opportunity to use discretion in regulation. Discretion originated from English which means prudence and scope. Discretion (legal dictionary) means the independence of taking decisions in every faced situation in his own opinion. There are several methods according to theory of discretion⁸. According to legalistic legal theory, this theory views the law as a logical closed structure, not contradict one another, law is regarded as the expected set of rules to be obeyed by members of the community. Law is medicine of all kinds of diseases that violate the norms of society. At this point, the police discretion cannot be done. According to functional or sociological law theory, this law theory considers as a tool for social engineering. The officer must always measure the law norm and other factors which influence (social, culture and many others) based on its effectivity, how the law works in reality. According to the discretion theory is allowed if this is not appropriate with the reality or fact in the society. This critical law theory responses functional theory which according to Sudarto it has no legitimacy criteria means it does not provide justice principle. Law contains values and principles which is relatively autonomous. Function of society control, discipline performance and crime countermeasures must be oriented on the principle. However, discretion is still in structure of law principle. This principle is embraced by our law enforcer and to interpret discretion appropriate with its own preference. According to researcher observation, according to Prof. Sudarto, discretion can be used but it must be tremendous right and notices applicable law principles.

Based on Constitution 1945, it is clearly regulated regarding to judicial authority. Article 24 verse (1) Constitution 1945 declared that judicial authority is independent authority to hold justice in order to enforce the law and justice. In Article 1 Constitution Number 14 Year 1970, Constitution Number 4 Year 2004, Constitution Number 48 Year 2009 as regards Judicial Authority declared that judicial authority is independent state authority to hold justice in order to enforce the law and justice based on Pancasila, for the sake of the implementation Republic of Indonesia state law.

In the Article 24 verse (2) Constitution 1945 stated that judicial authority done by Supreme Court and justice council underneath it in the environment of Public Justice, Religion Justice, Military Justice, State Administration Justice and Constitutional Court. This formulation is precisely like contained in Article 2 Constitution Number 4 Year 2004 and Article 18 Constitution Number 48 Year 2009. When perceive on judicial authority formulation contained on Constitution 1945 and Constitution Number 4 Year 2004, Constitution Number 48 Year 2009 more accentuate *judicial authority as independent state authority to hold justice*. It means judicial authority identified with justice authority

⁸ M. Faal. *Op. Cit.* halaman 33 – 38.

or judicial power. This is precisely like advanced constitution, which is Constitution Number 14 Year 1970 and Constitution Number 35 Year 1999. According to Prof. DR. BardaNawawiArief, judicial authority formulation contains on all three law are judicial authority in limited meaning. In amendment Constitution 1945 also lead to justice, it must contain political law in order to law enforcement in Republic of Indonesia State Law certainly. Moreover, he stated that *Judicial Authority should be formulated as state authority to enforce law and justice in order to hold Republic of Indonesia State Law*⁹. In extensive value of judicial authority, judicial authority accordingly is not only embrace adjudicate authority but also embrace authority of law enforcement completely, means in Criminal Justice System, judicial authority in criminal law area covers all authority in criminal law enforcement, which is investigation authority (by investigation institution), prosecution authority (by prosecution institution), adjudicate authority (by adjudicate institution) and verdict executor authority (by execution institution).

There are four authority stage of judicial authority (investigation, prosecution, judicial and execution). This is called Integrated Criminal Justice System. Related with explanation above, the definition of independent judicial authority must be manifested in whole process of criminal law enforcement. It will not mean If the independent judicial authority only on one of the sub system, which is adjudicate authority only. Moreover, judicial authority preferably in the shade of Supreme Court as sole authority in managing independent judicial authority. If there is another authority of four authorities in law enforcement process, it will be difficult to understand the meaning of independent judicial authority.

The consequence above is surveillance authority of Supreme Court is expanded not only consist of the judge or justice performance surveillance (Article 32 Constitution Number 5 Year 2004, Constitution Number 14 Year 1985 as regards Supreme Court) and Legal Advisor and Public Notary.

Supreme Court preferably becomes supervisor and the highest controller from all criminal law enforcement process (investigation, prosecution, judicial and execution). This will be held Integrated Criminal Justice System. If the Supreme Court surveillance is well done, then it is likely distortion to occur in law enforcement even in the level of investigation, prosecution, judicial and execution can be eliminated.

CIVIL LAW CULTURE SYSTEM

There is impact of the used of law system, which is Civil Law System, Constitution is the main provenance of law. Constitution also has excess in fulfilling certain purposes, however it also has disadvantage because the rigid characteristic, not flexible and static. The main purpose of civil law system is certainty is not justice. Because the influence is very strong in this system toward law

⁹Barda Nawawi Arief. 2001. *Masalah Penegakan Hukum*. Bandung: PT. Citra Aditya Bakti. Halaman 27.

enforcer, then in case solving strongly prioritize characteristic against formal law. If the constitution does not say explicitly that an action is a crime, the he is free. This is not in line with the principle of legality (Article 1 Verse 1 Criminal Code) stated that "No action can be convicted, except on certain criminal strength in constitution which is existed before the act happened." This principle known as *Nullum Delictum Nulla Poena Sine Praevia Lege Poenali* which means no offense, no punishment without rule which first mention the deed concerned as an offense and contains a penalty for the offense. According to Hermann Mannheim, the definition of crime or offense is not only violent action law or constitution only but also contrary action with conduct norms, which is contrary action with the existed norms in the society however the action it has not been mentioned or regulated in constitutions ¹⁰. Mannheim uses the term of morally wrong or deviant behaviors in relation with the violate actions or contrary actions with the social norms even though not yet set in the constitution. He used the term of "legally wrong or crime" to refer every violate constitution action. Many sociological cases which harming community (viewed from material law characteristic), however not violate law legally (Adenlinlis's Case which release from district court) and Ariel and Luna Maya case is a challenge for law enforcer, how attorney seeks fundamental law to entangle Ariel and Luna Maya, and how the judge will decide this case later. Based on researcher's observation, the first effort is the way of law enforcer use broad interpretation, as practiced by Bismar Siregar Judge's. Bismar Siregar Judge's in "Cheesy Seducer" case in Medan High Court Registry: 144/PID/1983/PT.Mdn has interpreted Article 378 Criminal Code which broader object's definition including "Women's Virginity". From several existed interpretation methods (grammatical interpretation, systematical interpretation, historical interpretation, teleological or sociology interpretation, analogical interpretation and many others), this is often become jurist debate indeed which is analogical interpretation divided into two side, such as acceptance side and opposing side of analogical interpretation.

Analogical interpretation is interpretation of the act at the time it was done, it was not criminal act, applied criminal law provisions applicable for criminal act or other crime which has same characteristic with this action, so both deeds considered analogous one with the others (Institute of Community Study and Advocacy, without year: 6) The practice must be admitted, found that unregulated problem often in constitutions or already regulated but not clearly and completely regulated. Sudikno Mertokusumo said there is no as complete or as clear regarding law or constitution. The function of law is to protect human interest by organizing human activity. Meanwhile human interest is counted the amount and type and continuously developing throughout the ages. Therefore, uncertain or incomplete constitution must be explained or completed by discovering its law. ⁵

If we notice in Constitution Provision Number 4 Year 2004, Constituent Number 48 Year 2009 concerning the Main Provision of Judicial Authority there is a reference about this. Article 14 verse (1)

¹⁰Moh Kemal Darmawan. 1994. *Strategi Pencegahan Kejahatan*. Bandung: PT. Citra Aditya Bakti. Halaman 2.

Constitution Number 4 Year 2004, Article 10 verse (1) Constitution Number 48 Year 2009 stated that Judicial is not allowed to investigate and to adjudicate a case submitted with the excuse that none or less clear law, in fact mandatory to investigate and to adjudicate.

Moreover in Article 5 verse (1) Constitution Number 4 Year 2004, Article 4 Verse (1) constitution Number 48 Year 2009 stated that Judiciary investigates according to law by not distinguish people. This law means as written law (Constitution) or unwritten law (customary law or custom). This is further emphasized in Article 28 Verse (1) Constitution Number 4 Year 2004, Article 5 Verse (1) Constitution Number 48 Year 2009 stated that Judge's mandatory is to extract, to follow and to understand law values and to live sense of justice in the society. The article provisions relate with Judge in proceeding duty and obligation in investigating, adjudicating and determining a case. In performing those duty, Judge also require to notice *idee des recht* which contains three characteristics such as Legal Certainty, Justice and ProportionallyExpediency. If the problem happens clearly normative of its legal certainty not necessarily fulfill sense of community justice. The opposite of any fair is not necessarily appropriate with the constitution provisions. Furthermore, it requires to contemplate the statement of BismarSiregar who stated that judge must be brave to interpret the constitution in order to serve the constitution as living law, because judge is not only enforce formal law but also discover justice which live among society. Thomas Aquinas stated that the essence of law is justice, therefore unfair law is not law¹¹. Moreover, Gustav Radbruch also stated the purpose of law is legal certainty, justice and expediency. From the three purposes, it must occupy the first position and the main of certainty and expediency.⁶

Second by using legal reform. The procedure by upgrading law, in a way of constitution revision or by constitution replacement which is already incompatible with society condition. The criminal law effort is done by criminalization. Criminalization is started by drafting constitution and terminating after its constitution formation. For example: living environment constitution, consumer protection constitution, prohibition of monopolistic practices and unfair competition constitution, Criminal Code Concept (in the process of validation) and many others.

In criminalizing the deeds, it must be done selectively and evaluative. The meaning of selective needs to be considered others aspects such as:

- a. The deed is not liked or hated because harming the¹² society.
- b. There is balance between expected cost and benefit.
- c. Quality or quantity apparatus readiness.
- d. Criminal act does not obstruct the nation's goals.

¹¹ Bambang Sutiyo. 2009. *Metode Penemuan Hukum*. Yogyakarta: UII. Press. Halaman 152

¹² Sudarto. 1986. *Hukum dan Hukum Pidana*. Bandung: Alumni, halaman 36.

Evaluative means criminal act requires to evaluate or to upgrade whether still quite relevant or beneficial for society. When it is deemed useless, then the deed is decriminalized. For example, Constitution (Prevention of Abuse of Religion Blasphemy) Number 11 Year 1963 concerning Subversion.

However, it needs to know that the effort done by the second procedure requires long time, energy and mind is not mild and also the cost is not slight. As the example of Criminal Code renewal started in 1963 year until now not yet authorized become constitutions.

CONCLUSION

Sub systems in Criminal Justice System should not implement existing authority according to its will or its own interests without regards to interest of other sub system. Hence, it requires coordination and mutual coordination to reach the expected goal, which is crime prevention to actualize community welfare. In order to well coordinate, it requires surveillance of criminal law enforcement. It is Supreme Court task legally has been arranged in Constitution 1945. Moreover, if we still maintain civil law which is not really appropriate with our state condition, then the law enforcer must be brave to interpret broadly toward existing constitution in order to bring justice. In order to not emerge pros and cons in criminal law enforcement of this civil law system, so the criminal law renewal must always be done compatible with society development.

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