CRIMINAL JUSTICE SYSTEM

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Abstract

CJS, the have lavel is police investigation, he was prosecuted/ajudications and correctional institution. Zelznijk and Nonetz the three level is Criminal Justice System, Pra adjudication, adjudication and post adjudication. There is KPK in investigation corruption criminal, overstate/increase Justice War.

Keywords: criminal, justice, criminal justice system

INTRODUCTION

Referring to the opinion of Roscoe Pound[1], that law is a tool of social engineering, then what is contained in the provisions of Law number 2 of 2002 on the provisions of the Principal of the State Police, Law number 8 of 1981, on the Criminal Procedure Law, 2009 on the Basic Law of Judicial Power, Law No. 16 of 2004, on the Attorney of the Republic of Indonesia, and Law No.3 Year 2009 on the Supreme Court and Law Number 12 Year 1997 regarding Corrections instead of Gestichten Regelement 1917 No .708, is an ideal provision to engineer Indonesians to behave in good faith in upholding the law.

As a judicial institution / institution it can not be separated from its human factors, its Judge, its Jaksa, its Police, its Investor, the Interpreter and the linkage with other institutions.

Similarly, understanding the workings of the judiciary can not be viewed only from the normative legal perspective as the application of rules only. Although the law on the authority of the judiciary clearly states that judicial power is an independent power, free from outside interference. In reality, however, we can not turn a blind eye to the fact that the judicial power remains intense with the political, social, economic and even personal interventions of the police, prosecutors and judges themselves as ordinary human beings possessing ambivalence.

With adanaya Law no. 48 of 2009 on the authority of the Judiciary shall be conducted by a Supreme Court and subordinate courts within the courts of general, religious courts, military courts, state administrative courts and by a Constitutional Court. then the performance of the judge should be better and more provesional in examining and imposing a verdict. Do not let the untruthfulness of the past remain practiced in performing their duties.

But it seems that bad practices are not easy to leave because it has become a chronic virus. Many examples of Judges' rulings are considered controversial. In fact, sometimes we will never be able to predict the outcome of a case only from the point of view of the law and the rules alone. Such predictions are often missed. Many factors affect the course of the trial in court. The factor of who is the judge, who is the prosecutor, who is the president, the factor whose lawyers are the factors that should be included as material for forecast, although the theoretical circle of law will reject it. The jurists tend to continue to interpret the sounds of Article 4 and Article 5 paragraph 1 of Law no. 48 Year 2009 grammatically or according to everyday understanding. Such interpretation is certainly not wrong, or even to be interpreted as such, but the reality is not so.

According to Prof. Dr. Satjipto Rahardjo[2], S.H, that the court is not a neutral institution that operates only under the rules of the rules. Courts also contain commitment, determination and orientation. Thus, from court to court will be found differences. The differences are certainly not something wrong when viewed from the function of the judiciary that must uphold justice based on the Supreme God, because justice does not mean equations. Justice refers more to differences.

The dualism of the leadership of judges ended with the birth of Law No.48 Year 2009 on Judicial Power. But whether the transfer of the administrative power of the judiciary from the Department of Justice and Human Rights to the Supreme Court can be completed? It does not seem that simple. The problem of decadent judge morality, and the issue of bribery morality to Judges, Prosecutors and the Police is a complicated issue, besides that it is not less important about the political will of the ruling class[3] for their commitment and consistency to the nation towards law enforcement in all areas of life, such as combating corruption.

Then what is interesting is how the positions of new institutions that do not exist in the institutional structure of the judiciary in Indonesia such as the Corruption Eradication Commission (KPK), and the Judicial Commission (KY) and the judges Tipikor and other commissions whether the existence of the institution and the existence a special judge of corruption can solve the problem of corruption eradication in Indonesia.?

DISCUSSION

A. Definition of Justice

It is not easy to give a precise definition of justice. Prof. Mr. Sudikno Mertokusumo[4], acknowledged, that giving the definition of the judiciary including the act of yag is difficult. According to Fockema Andreae in Sudikno Mertokusumo[5], the judiciary is an organization created by the state to examine and resolve legal disputes, its function is called the judiciary. Lemaire[6], defines judiciary as a legal exercise. However, the implementation of the law does not always happen with the judiciary, then the implementation of which law is the judiciary? The implementation of the law meant here is the enforcement of the law in the case of a right of claim.Van Kan argues that the judiciary is the work of a judge or a judiciary. The judge and the tribunal, according to him, are the bodies which the government is firmly entrusted with in the task of examining complaints concerning rights abuses (legal) or examining the lawsuit and the body is giving a judgment[7].

According to Prof. Mr. Sudikno Mertokusumo[8], that the word court consisting of ADIL basic words and getting the "per" prefix and the ending "an", means anything related to the court. The court is not defined merely as an agency for mangadili, but as an abstract notion, that is, "the thing that gives justice." It provides meaningful justice with respect to the duties of the judiciary or judges in providing justice to those who plead for justice on what it is entitled to or what the law is. With the word of the judiciary is anything related to the duties of judges in deciding cases both private and criminal cases as well as state administrative matters, to defend or guarantee the obedience of material law.

According to an ancient Javanese Dictionary which was read by Prof. Dr. Dr A. Zainal Abidin Farid, that the term Prodoto (now called civil), actually means evil. So people mistakenly take the term Java. Private or civic cases in Javanese language are called solid case.

As a point of departure from the above description, it is necessary to be given a limit on the meaning of criminal justice. The criminal justice is anything related to the duty of law enforcement, namely Police, Prosecutor and Judge in investigation, investigation, prosecution and decides criminal cases to maintain or guarantee compliance, as well as the enforcement of material law and criminal law as well as the law relating to it.

B. Brief History of the Status and Roles of the Judiciary

The position and role of judicial bodies from the lowest (Landgerecht, Landraad) to the highest (Hoog Gerechtshof) is sufficiently guaranteed of freedom and authority, it can even be said to be the centrale figuur and the dominant factor in the process of repressive law enforcement. All law enforcement officers perform their judicial duties in a well-controlled manner with one another in a series of law enforcement processes: pro yusticial, beginning with the judicial police officer (rechtsopolitie) forwarded to hulpmagistraat and magisstrat / officier van justitie and then (via rechter-commissaris) filed to the head of the first level court, the appeal and final level to hooggerechtshof.

Judicial police officers as investigators are supervised by the prosecutors (magistraat / officier van justitie) who as a follow-up investigator and the public prosecutor are supervised also by the judges of the commissioner and the head of the first and appellate courts while the procureor - general as the head of the judicial police (rechtspolititie) is supervised by hooggerechtshof. Thus all law enforcement officers are functionally perform their duties in a series of unity tasks namely the judicial duty (judicial).

Based on the principle of concordance prevailing at that time, the position and function of the judiciary in the Netherlands Indies was adapted to the conditions of the Netherlands which adopted the Continental European system, which among others required that judges be advised actively. The judge in the law enforcement process must act actively, both before, at the time and after the trial. This is the case with the establishment of a judiciary commissioner's body on Raad Van Justitie (which applies to the European class) and for indigenous groups, resident landraad is authorized to exercise oversight of illegal acts (even illegale arrest), even according to pas 197 R.O. someone who has an interest and feels unfairly treated in the law enforcement process can directly lodge a complaint with Hooggerechtshof.

How will it be after Indonesia's independence? The circumstances described above can be said to remain valid for a decade of Indonesian independence, the judiciary with its judges playing an active role in the law enforcement process, since the police and prosecutor officials at that time remained the law enforcement agencies -the judicial body. They are investigators, assistant prosecutors and prosecutors / prosecutors / attorneys. According to Article 12 paragraph 4 of Law N0.3 Year 2009 challenged the Supreme Court of Indonesia at that time (Act No.1 of 1950), then Mahkama Agung has the power to request all information, judgment and advice of all courts, also from the army court and from the judge, so also from the attorney general and other employees who are entrusted with criminal prosecution. The Supreme Court shall also reserve the right to order the delivery or delivery of the corresponding letters with cases to be considered. Thus, the Supreme Court has a supervisory role, so that the process of law enforcement in Indonesia is going accordingly.

In the Netherlands until now the police are under the Ministry of Home Affairs, since the functions of the Police are seen as including Bestuur (Government), the Prosecutor's Office is under the Ministry of Justice, just like the colonial masses and the beginning of Indonesian independence (Prof. Mr. DR. Zainal Abidin Farid, 1997; 17).

However, with the enactment of Law no. 2 of 2002 on the new Basic Police Law and Criminal Justice Act, Law no. 16 of 2004, followed by the Basic Law of Judicial Power, Law no. In 2009, there was a new development, in which each law enforcement officers of the Police, the prosecutor's office and the judiciary found themselves stand-alone and had their own department apart from the Department of Justice.

Prof.Dr. Daniel Lev the sociologist (Judicial Institutions and Legal Culture in Indonesia, in Culture and Polities in Indonesia, Cornell University Press, I Thaca New York 1972, pp. 26-318, in Prof.A. Zainal Abidin farid), he described the war between Police, Attorney, Courts and Lawyers, in the Old Order, so arranged in a stratified position as follows:

1. Police are culminated by the inclusion of ABRI
2. Prosecutor's Office
3. Court
4. Lawyers

It can be seen on the number plate car with the heads A, b and C, the police use the number 1 and is special car high court numbered 3 and the high prosecutor numbered 2.

So there was a shift in executive power on the summit following the legislative and judicative on the bloated and brought bloated lawyers. Unlike the situation in the Netherlands it is the court that is considered the most honorable, then followed the officer van Justitie, followed, the police. The most respected law scholar there is the same in America. Then how about the presence of KPK in TPK investigation, Justice War is increasingly unavoidable.

Formally juridical according to KUHAP the court is still authorized to oversee the law enforcement measures carried out by other law enforcement officers as has been mentioned above.

State officials in Indonesia generally have not been able to live and practice the difference in status and function of the Administration of Criminal Justice, requiring the division of functions, even if it must be implemented by several different law enforcement agencies or different agencies.

According to Prof. Dr. J. H A. Logemann, that function in administrative law is also called ambt (position), a function or position executed by several different functionary agencies called Samanges teld Ambt (Compound position). Such thinking was undermined by the Old Order government pawed by the PKI, which deliberately provoked disagreement between agencies (in accordance with class lines of opposition). In such a disorderly situation, what Daniel Lev called JUDICAL WAR failed to carry out the administration of Criminal Justice function. The influence still felt during the New Order era until now, failed to implement KISS. (Prof. Dr. Mr. A. Zainal Abidin Farid, March 17, 1997).

Criminal procedural law regulated in Law no. 8 Year 1981 actually has precisely set up a build-in control and check and rechecking system between fellow law enforcers so that it can guarantee a proper implementation of the right, integrated and harmonious tasks among them. However, in practice it turns out that, based on the main law each of which is more emphasis on the differentiation of the task rather than the harmonization in their tasks, so that sometimes the law enforcement process is stagnant can not be accomplished a speedy administration of criminal juctice and may harm the seeker of justice, to obtain a "just, fair and impartial trial" as required by the Basic Law of Judicial Power.

Therefore, Law no. 4 of 2004, has determined the legal principles applicable to the judiciary, namely:

a. State courts must apply and enforce law and justice under Pancasila (article 3, verse 2);
b. The courts judge by law by not distinguishing people (art. 5 ayait 1);
c. Justice is done for the sake of justice based on Belief in the One Supreme (Art 4 verse 1);
d. Judges as law enforcers and are obliged to explore justice follow, and understand the values of the living law in society (article 27 verse 1); ande.
e. Any interference in judicial affairs by other parties outside the judicial authority is prohibited, except in those cases in the constitution (art. 4, verse 3).

From these provisions and the provisions of the constitution itself formally the Indonesian judicial bodies have been given adequate positions and dignity, but it appears that their position and authority have not been in accordance with the legislation. This is partly because there is still a gap between das sollen and Das Sein. The State of Law as referred to in the 1945 Constitution has not yet become a reality, and since the implementation regulations that have to support it have not existed or sometimes caused by the integrity or quality of human implementation are not meet expectations, there is also DISCREPANCY between statement and reality and the unfolding of supremacy law, legal awareness and obedience or compliance with the law in accordance with the intent of the 1945 Constitution.

In KUUHAP there is a clear distinction between the task of police investigation, prosecution by prosecutors and judiciary by judges without being accompanied by control and check and recheking systems among law enforcement officials. According to Prof. Dr. Mr. A. Zainal Abidin elimination of the Attorney's authority to conduct further investigation, slow the settlement of cases. When the HIR is still in effect the AGO usually cooperates in investigations if the prosecutor deems it necessary to settle the case, the prosecutor shall immediately conduct an additional / supplementary

examination, especially if the term of detention will end. With the KUUHAP system that compartmentalized the investigation function, then the case file could be back and forth between the police and the AGO so that it takes a long time. In the Netherlands and other countries of Western Europe, the Prosecution Service still has investigative powers which are in place in the practice of further investigation (nasporing), so as to achieve SPEEDY TRIAL.

Supervisory bodies such as the Judicial Commission are now indispensable, as our society is now in a crisis of loss of trust to law enforcement. Supervision over the duties of supervisory judges has been carried out by the Supreme Court and Supreme Supervision by the Supreme Court, but in fact the institution can not perform its duties maximally, even impressed co-opted with dirty court mafia game. Hopefully with the existence of this judicial commission agency oversight of the mischievous judges can be better. (This judge or Judicial Commission like this has been proposed in the draft Criminal Procedure Draft Law by the Inter-Departmental Planning Committee, probably by modeling RECHTER COMMISSARIS in the Netherlands and France).

C. Indonesian Criminal Justice System

Simply put, the Criminal Justice System can be understood as an attempt to understand and answer the question what is the Criminal Law task in the Community and not just how the criminal law in the law and how the judges apply it.

By law No. 8 of 1981 on the Procedural Code Pidanap Indonesia's criminal justice system has four components or four sub-systems namely the sub-system of the Indonesian National Police; sub-system of the Prosecutor's Office under the Attorney General's Office and the Court under the Supreme Court and Penal Institution under the Department of Law and Human Rights. In its development according to the authors that the elements of the criminal justice system not only include the four components mentioned above, but there is another element that is not less important that the defendant / lawyer.

The purpose of the criminal justice system as proposed by Prof. Dr. Muladi, S.H.[9] , can be categorized as follows:

1. short-term goals, if the resocialization and rehabilitation of the perpetrators of crime are to be achieved;
2. Categorized as medium-term objectives, if they are to be addressed more widely, namely the control and prevention of crime in the context of politics, criminal (Criminal policy);
3. Long-term goal, if what is to be achieved is social welfare (Social Welfare) in the context of social politics (Social Policy).

According to Prof. Mr. Mardjono Reksodiputro, this system is considered successful, if there are reports and complaints of the community that they have become victims of crime so that it can be resolved by the perpetrator filed before the court and received a criminal. Thus, the scope of this system is very broad, namely:

1. Preventing people from becoming victims;
2. Complete the crime so that the public is satisfied that justice has been upheld and the guilty in criminal penalty;
3. As well as trying to make those who have committed crimes no longer repeat their actions.

The mechanism of the criminal justice system, began to work at the time of a crime report from the public. After that the police conducted an investigation, arrest, investigation and making the report of the examination[11]. The alleged perpetrators have committed crimes and guilty are passed on to the prosecutor's office, while those that are not proven are returned to the public. Then the prosecutor held another selection of the perpetrators and held a prosecution and made an indictment[12].

Insufficient actors-enough evidence that he has committed a crime is released, while those with sufficient evidence are brought to justice. In this case the court also does the same thing, meaning that the unlawful and innocent are released, whereas those who are proven to commit the crime are submitted to the penitentiary as the last institution to conduct guidance against, the convict.
As a system, the mechanism requires cooperation between sub-systems. If one of the sub-systems is not working properly, then it will disrupt the system as a whole. Therefore, the four sub-systems that have a close relationship with one another are one purpose, but the task is different.

D. Crime Control Model dan Due Process Model

Herbert L. Packer in his book The Limits of The Criminal Sanctiong reveals there are two models in the criminal justice process (Crime Control Model (CCM) or the Model of Crime Control and Due Process Model (DPM) or Model Protection of Rights. Criminal Process (criminal process) based

on criminal law. The two processes differ in how they work, but recognize the importance of a written set of laws, but focus on different rules.

Packer invites to understand just how complicated the criminal process is. To illustrate the criminal process he tried to take on the characteristics of opposing models. The difference between the two models will be seen during the arrest until the person is found guilty of committing a crime and guilty.

The CCM characteristics are efficiency, which includes the criminal process that is quickly captured / and quickly prosecuted Persumtion of guilt (as if the suspect had been guilty).

Characteristic of the Due Prosess Model, is the protection of the rights of the suspect to determine the indictment of crime and wrong of someone who must go through a trial.

In reality both of these models (CCM and DPM) very much influence the Indonesian Criminal Procedure Code that is prominent DPM characteristic in Indonesian Criminal Procedure Code which is protection of rights of suspect, but in working Criminal Procedure Code, Crime Control Model is the most prominent.

In reality the criminal justice system is not working as expected (not working). The malfunctioning of this system according to the authors is because every sub system has authority and power, Discretion of Power, so there is a sharp polarization whereas investigation, further investigation and prosecution are most related and inseparable. This can be clearly seen in the authority of each section. Within the framework of understanding some of the obstacles to the absence of cooperation between, the sub-systems, this chapter attempts to analyze the extent of the authority of each of the Police, Attorney, Court and Penal Institution subsystems, which can be an obstacle in the process of simple.

Police

Police as the first agency involved in the mechanism of the Indonesian criminal justice system, in carrying out its duties is guided by the provisions of the Principal Police of the State Act no. 2 year 2002 which has the authority and duty, among others:

a. Receive complaints, arrest people, arrest people;
b. The police also participate physically in the defense of the country.

According to Law no. 8 of 1981 on the Criminal Procedure Code, the Police are authorized and declared as: (a) the investigator, under section 4; (b) the investigator of article 6; (c) verbalisant shall be required to produce a Minutes of Examination, pursuant to section 75; (d) have the discretion to stop the investigation, article 109; (e) and has the authority to determine what criminal acts committed by a suspect under section 121.

Therefore it can be said that the most heavy of duties and responsibilities among law enforcement tool is the police. Polisilah the first thing to do all efforts that are preventive is to avoid the occurrence of security disturbances. The police should always be on standby day and night. In his duties the police are required to have a sixth sense in order to be able to smell all the disturbances of order and security. Through the sixth sense that the police are expected to avoid the things that cause crime[14].

Seeing the above facts, the police task is very wide and the risk is very great because dealing directly with criminals. Despite so many unreported crimes, it can be estimated that there are still far more crimes not being tried. In connection with this, there is a shortage of police and police officers while performing their duties as security officers and as investigators, often misbehaving suspected perpetrators. Therefore, it is possible that the Minutes of Investigation were rejected by the AGO because of incomplete evidence.

The police as a goalkeeper in the sense of what is forwarded for prosecution are faced with many administrative obstacles, in the case of the police as one of the law enforcers, must actively protect the public from the occurrence of crime. The police also have a discretion in applying the mandate given and also given the main task of making a decision on the spot. The decision at the time, resulted in something very important that is how the law is applied in particular the recognition of the rights of suspects. Police Discretion passed by Law no. 8 of 1981 by some academics and practitioners felt greatly affected police behavior itself, that is with the disceription of power does not menunutut the possibility of abuse of power (abuse of power) and this will result in disruption of the judicial process and the principles of justice.

Attorney

The main task of the prosecutor's office according to Law no. 16 of 2004 is to conduct prosecution in criminal cases, carry out the determination of judges. In addition, if necessary, the AGO conducts additional / advanced (nasporing) investigations. The prosecutor as a public prosecutor is

assigned to formulate cases received from the police or the agency assigned as investigator to settle the case according to law.

Article 13, and 14 of Law No. 8 of 1981, that the Prosecutor as a Public Prosecutor is authorized to accept and examine case files, make an Indictment, submit court files to court, extend detention, arrest. The most fundamental principle in the criminal justice process is the necessity of making an indictment, as it is the basis of the hearing in court.

For the judge the allegation should be a guideline for making a verdict on whether or not the defendant's actions and faults in particular concern everything contained in the indictment with what has been proven to be proven in the hearing. Thus both the acknowledgment and the judgment of the judges are entirely derived from the indictment filed by the prosecutor at the beginning of the trial, and they are required to understand the examination, examination and testing of the truth, from the point of view of the indictment which then gives rise to a conclusion about whether the accused is guilty or not and / freed or released from all charges[15].

Incomplete indictments will hamper the judicial process and result in delays in settlement of cases. The authority of the Prosecutor extends the period of detention into obstacles. In addition, the Prosecutor is entitled to return the case file to the investigator for completion (Article 110 of the Criminal Code). Such authority certainly creates legal uncertainty for the suspect. According to Article 144 of the Criminal Procedure Code, the prosecutor may amend the indictment before the trial on the grounds of refinement or not proceeding with a seven-day term. This article provides the possibility of slowing the trial that the misuse of authority to cause legal irregularities.

Court

In countries where the Rule of Law applies, judicial freedom is central to the law or the law. This means that judicial power should not be influenced by other powers. If there is cooperation between the court and other agencies in the implementation of the criminal justice system, it will experience a vulnerable point, because in a law Country, judicial power should not be influenced by other institutions. Judges should keep their distance, so that their decisions are not only impartially, but also impartial to the public. But in reality judges in deciding a case, often lead to disparity penalties / criminal differences, (disparity of sentencing).

In the positive criminal law, the judge has a very wide range of freedoms, in connection with alternative systems in criminal penalties. In addition, the judge also has the freedom to choose the weight of the criminal to be imposed, because that is determined by the legislators only maximum and minimum.

The disparity factor can be sourced from the law or on the judge's internal and external judges. These two traits are difficult to separate because they are integrated as one's attributes called human equation or Personality of Judge in a broad sense that involves the influence of social background, education, religion, experience, temperament and social behavior.

Correctional Institution

Correctional institutions as the last institution in the criminal justice system and the execution of court decisions, in fact do not question whether the person to be rehabilitated is someone who is actually proven guilty or not. For prisons, the purpose of fostering offenders is not merely reply but also an improvement based on the Islamic penalty philosophy which in essence undergoes a change from the imprisonment system to the penitentiary system which views the inmates of the lost who need to be educated in order to repent.

According to Law no. 12 of 1997 that prisoners are a condemned man. Sahardjo, a former Justice Minister who is known as a reformer in the world of Indonesian prison, has put forward the idea of prison for the convicted persons as follows:

1. each person is a human being who must be treated as a human being.
2. every person is a social being, no one living outside the community.
3. prisoners are only sentenced to loss of freedom of movement so cultivated in order to have a livelihood.

What was the idea of Sahardjo's mind at that time, seemed only a mere memory. As it is now apparent that the underlying problem of prisons lies in the limited facilities that support prisoners' guidance, and the lack of professional and capable personnel for effective guidance, administrative and financial means, in this case much needed to manage prisons, physically necessary for the shelter of prisoners who qualify for health, as most of the prison / prison heritage buildings of the Dutch colonial heritage in these areas have not been replaced. as well as workshop facilities, which are useful for training inmates to be skilled in a particular job. The absence of some supporting facilities and the failure of prisons to provide guidance will result in former prisoners after being in the

community will re-commit the crime, in addition to the community's refusal. Both the stamp and the stigma created by the community against prisons and ex-prisoners are a sign of the failure of the penitentiary in particular and the criminal justice system as a whole.

From the description of the criminal justice system above needs to be studied from sociological point of view by using SIBERNERTIKA theory from Talcot Parson (AS), so that the problem of criminal justice role can contribute to society in need of justice and legal certainty.

E. Sociological Studies Against Criminal Justice

Article 5 Paragraph (1) of the Judicial Authority Law contains the principle of equality before the law law, a principle that highly values human equality before the law. The idea of this principle is that before the law, man is not viewed in terms of his position, his wealth, his class, his education and so on. In the face of the law, man is the same. human beings have equal rights and equal obligations.

In the context of sociological studies, this principle is very difficult to realize. In the social system is known the concept of power, authority and social coatings that greatly affect the realization of these principles.

The power and authority possessed by a person turns out in its implementation that it has a tendency to be abused especially in the paternalistic and neo feudalistic countries. The one who has power and authority always strives to benefit oneself and his relatives and friends, while the one who has a social position under is less daring to rebuke the one who is above it, even though he knows that his superior has transferred his authority. It is the human behavior encountered in almost every developing and backward country. A subordinate generally dare not reprimand his superiors who according to his judgment act wrong. The person who has received the gift generally turns a blind eye to the mistake of the person who has given something to him.

The fact of such a human behavior is clearly unavoidable in the application of the rule of law, including in the implementation of the principle of equality before the law. No one can deny that the law is related to human behavior. What is governed by the law is none other than human behavior. Thus there will always be a shortage when the discussion of the law revolves around rules. Rescou Pound has criticized ways of studying the law that he says is spent energy to discuss the existence of a consistent, logical, detailed and precise regulatory system, while the true legal life lies in its enforcement. Thus, in studying the law, it is also necessary to consider the relationship between the rules and the objectives to be achieved.

As an ideal principle, equality before the law should always be endeavored to be realized in law enforcement, but it should be noted also the problem of principle in society. A few years ago it was reported in Surabaya newspapers about the case of a judge's blackmail to a parking man worth Rp. 50,000, - a relatively small value at that time. In this case the judge decides to give the perpetrator some months of punishment. Then on another occasion (1995), in a trial in Surabaya, disclosed the presence of a prominent figure who in his testimony in the strong alleged involvement cases of persecution. But until now the case has not been in print. What the reason is unknown.

The two examples above show enough problems of the principle of equality before the law. Against the helpless little people, with lawless law enforced, but on the contrary to the strong, the law is reluctant to show its efficacy. We dont believe the paper rules show me over the prison the American word.

The formulation of La Tiringeng To Taba, Wajo statesman in the XV century, in the writings of Prof. Mr. DR. A. Zainal Abidin Farid, stated that This is contrary to the purpose of law. According to Lontarak Bugis which reads: The so-called golden law, is the gatherer of the people so as not to divorce, the fence of the country so as not to do arbitrary acts, the shelter of the honest weak and the place of bumping the strong cheat.

Although legislation can be read readily, it is inconceivable that the application of the legal provisions read is not an easy and problem-free task. The application of the law is not just a rule. In reality, the application of law is a human interaction, ie between law enforcers and human beings subject to regulation. Therefore, if seriously want to know how a law enforcement is running, it must be willing to enter into the knowledge of human interaction.

Law enforcement is the battleground / Justice War, the exchange of conflict and the competition between power, interests and so on. The principle of equality before the law is willing in the middle of such a field. It is a hard struggle for the judge to enforce it.

CONCLUSION

As a system, the criminal justice system aimed at combating crime (Suppression of crime) in its journey encounters problems not only due to the absence of cooperation among sub-systems, but also by the influence of legislation which gives authority that exceeds personnel capability,

administration and professionalism of each sub-system and this has further consequences, namely the inhibition of simple, quick and low-cost criminal justice process. (Contante justice, speedy trial)

Also, more due to the human factor that does have an ambivalent tendency in him. Thus, the effort to be taken to narrow the distance between the provisions of law and its implementation does not solely lie in the legal development effort, but also must be accompanied by human development efforts as a resource in realizing the goals and ideals of law.

In the Anglo-Saxon State, the integrity of law enforcers is more important than the law. The views of people in the Anglo-Saxon state against law are distinguished from Continental Europeans. How to Indodnesia ??? in Indonesia the practice of law is played back and forth ie the head so ass and butt head. It also depends on who he is and how his greetings are pasted, the shame is gone and the only thing left is the shadows that haunt, the very embarrassing and tragic supremacy of our law.

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