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CORRECTIONS AS THE FRONTLINE IN REALIZING RESTORATIVE JUSTICE IN THE CRIMINAL JUSTICE SYSTEM OF INDONESIA

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ABSTRACT

As subsystems of the criminal justice system, correctional institutions play an important and strategic role in resolving criminal cases through restorative justice. The changes made by Law No. 22 of 2022 play a role not only in law enforcement at the decision-making stage, but also in pre- and post-decision coaching, mentoring and monitoring. This research is a normative legal study that explains various laws and regulations applied in relation to the realization of corrective functions from a legal approach.

KEY WORDS

Law enforcement, community counseling, restorative justice, criminal justice system.

Restorative justice is no longer a new concept in the Indonesian criminal justice system. This idea is enshrined in the Juvenile Court Rules of Law No. 11 of 2012 on the Juvenile Court System. Section 1(6) of the SPPA Act describes "restorative justice":

"Offenders, victims, families of offenders/victims, and other stakeholders should prioritize recovery over retaliation and work together towards a just resolution to resolve criminal cases".

An analogy to the concept of restorative justice contained in the SPPA Act is Wright's view that the measure of justice is no longer based on the concept of appropriate retribution against the victim's offender, but is cured by painful acts. Victims are helped and perpetrators are held accountable. Use family and community support when needed (Josephin Mareta; 2018). The SPPA Act provides a diversion mechanism to move child protection proceedings from criminal to non-criminal proceedings. In the case of conversion, counseling should be based on restorative justice and involve the child and their parent/guardian, victim and/or parent/guardian, community counselor, professional social worker, and community social worker. Consultation has a purpose (UNODC, 2006):

"Process objectives include: victims who agree to participate in the process can safely participate and be satisfied. Perpetrators understand the impact of their actions on victims and others, take responsibility for the consequences of their actions, and promise redress. A flexible arrangement is agreed between the parties. Focus on undoing the damage that has occurred, and also address the cause of the damage whenever possible. Criminals try to fulfill their liability for damages and remove the circumstances that led to their actions gain. Both victims and perpetrators understand the dynamics leading up to a particular incident, gain a sense of closure and reintegrate into their communities (UNODC; 2006)".

Long before the Juvenile Criminal Justice System Act was introduced, the essence of restorative justice was practiced by the indigenous peoples of Indonesia. Several groups whose members engage in violent or criminal activities, such as Balinese, Torajan, Papuan and other indigenous peoples, are settled within traditional communities through engagement.

In fact, the concept of restorative justice is an approach that focuses on the interests of victims, offenders, and the communities involved. Some countries are no longer satisfied with the establishment of formal criminal justice systems, according to a handbook on recovery programs released by the United Nations Office on Drugs and Crime (UNODC). A new interest arose in connection with the resolution of criminal cases. This means strengthening common law and traditional court practices. This also strengthens the



existence of common law and traditional justice to settle crimes and social unrest that have occurred (UNODC; 2006):

“Many of these options offer the parties and surrounding communities the opportunity to participate in the resolution of disputes and their outcomes. These approaches are also seen as a means of encouraging peaceful expression of conflict, promoting tolerance and inclusion, building respect for diversity, and promoting responsible community practices”.

John Braithwaite, Howard Zehr, and Mark Umbreit further argue that the setting of penalties for wrongdoing can be remedied by holding criminals accountable and involving litigants (criminals, victims, and communities) in the process. The existence of apologies, rectification and recognition of wrongdoings committed, and efforts to treat and reintegrate offenders into society all support this concept, with or without additional penalties that provide offenders with opportunities for improvement. The goal of rehabilitation, recovery, reconciliation and reintegration of offenders and victims is the ideal form of restorative justice between offenders and victims and for the communities they share (Menkel Meadow 2007).

Recent developments in Indonesia have seen restorative justice gradually incorporated into law enforcement regulations such as: B 15/2020, On Staying Prosecution. Chief Justice Orders Restoration, Supreme Court Number: 1691/DJU/SK/PS.00/12/2020 Implementation of Guidelines for Restorative Justice Practices in Courts.

As part of an integrated criminal justice tool, prisons have a defining feature in terms of reparations justice expertise in Indonesia. Previously, correctional facilities were primarily based on the Corrections Act No. 2. From 1995 to 12 sporting institutions that provide instruction to prisoners primarily on the basis of systems, institutions and training techniques that form the final part of the criminal justice system. According to this definition, correctional institutions have the final function of the criminal justice system. This new Correctional Services Act is a criminal justice subsystem whose implementation includes prosecution in prison, child and inmate treatment situations. The development of community law does not always coincide with the dream of enforcement (Coral Intan Drug Prison; 2022).

Passage of modern prison laws requires the implementation of the prison system to be completed based entirely on principles such as humanity, protection, balance, non-discrimination, professionalism, mutual cooperation, independence and lack of independence. In addition, the law strengthens remedial avenues within the criminal justice system in response to a paradigm shift from retributive justice to restorative justice that follows community dream dynamics.

Through restorative justice, not all criminal cases result in imprisonment or imprisonment, but may take the form of an agreement by the litigants. This is consistent with the description in the Handbook of Restorative Justice Programs (UNODC; 2006):

“According to the Core Principles, ‘recovery outcomes’ are agreements reached as a result of the recovery process, includes references to programs such as compensation, reparations, and community services designed to achieve the social reintegration of persons with disabilities. For serious crimes, it can be combined with other measures”.

Criminal justice and the penal system as a form of renewal have played an important role in the development of crime, with a paradigm shift from criminal retribution as revenge against perpetrators to compensation. It plays an important role in Indonesian criminal law.

METHODS OF RESEARCH

In this article, legal regulations are used in the form of secondary data to create a legal approach made taking into account all laws and regulations on legal issues related to the implementation of remediation functions. The analysis was qualitative, using library research to discuss existing issues and draw conclusion.

RESULTS AND DISCUSSION

The Integrated Criminal Justice System is the criminal justice system that governs how law enforcement is conducted. An integrated criminal justice system can be interpreted as



the existence of functional and institutional relationships between law enforcement agencies. Subdivisions or subsystems include correctional institutions as agencies that oversee judicial investigations under the auspices of police, prosecutors, and the Supreme Court, and inmate care functions, including prisoners, inmates, and correctional clients. This includes officers, investigators and prosecutors. With respect to the content of Law No. 22 of 2022 on corrections, corrections are part of the criminal justice system and are related to the implementation of law enforcement in the field of treatment of children, prisoners and prisoners. Correctional institutions are no longer the final process of the criminal justice system, but part of the criminal justice system from pre-trial to post-trial.

The correctional system is organized with the aim of providing protection to protect the rights of children and prisoners and; improve the character and independence of prisoners so that they realize their mistakes, do not commit violations again, improve themselves so that they are accepted by the community, live normally as good citizens, obey the law, are responsible, and can play an active role in development; and ensure the protection of the public against repeated violations. While the correctional function includes the service function (activities organized to provide protection and fulfillment of the rights of prisoners and children in the judicial process); coaching function (organized activities aimed at improving the character and independence of prisoners and convicts); Community Guidance function (activities organized to assist Clients inside and outside the criminal justice process as well as to prepare Clients for the social reintegration process.); Nursing function (activities organized to support the maintenance of the physical and psychological conditions of Detainees, Children, Prisoners, and Children in Prisoners); Security function (all forms of activities in the context of preventing, taking action, and restoring security and order disturbances organized to create safe and orderly conditions in state detention centers and correctional institutions); and the Observation function (all forms of activities in the context of preventing, enforcing discipline).

Implementing an integrated criminal justice system requires coordination and synergy among law enforcement officers to achieve restorative justice. As subsystems of the criminal justice system, correctional institutions play an important and strategic role in resolving criminal cases through restorative justice. Diversion Mechanisms Enforced in the Juvenile Court Act. Remediation plays a role not only in law enforcement at the decision-making stage, but also in coaching, mentoring and monitoring from pre-discovery to post-discovery. Correctional facilities have law enforcement officers or community counselors who support clients inside and outside the criminal justice process and organize activities to prepare clients for the reintegration process. One of the duties and functions of the Community Advisor is the compilation of community research (litmus), the activity of collecting, processing, analyzing and presenting systematic and objective data on the benefits of inmates and parenting.

In SPPA, prisons act as representative moderators. The results of the analysis are used by law enforcement officers as one of their primary considerations when making diversions. SPPA Community Advisors are law enforcement officers who provide oversight, counsel, oversight, community support, and guidance in the evaluation of post-execution children, both within and outside the criminal justice process.

Meanwhile, by enactment of Law No. 22 of 2022, Community Her Counselors are law enforcement officers, dealing with information matters, assisting clients, and providing guidance and oversight both within and outside the judicial system. Clients are both adults and children under joint supervision. According to Immanuel Kant, crime is never committed solely to promote other goals/commodities, both for the perpetrator himself and for society is not intended. Rehabilitation is consistent with the rehabilitation philosophy that crime is a conflict between the inmate and the community. Punishment (punishment) is therefore aimed at resolving conflicts or reintegrating (reintegrating) prisoners into the community (Ikrak Surkin; 2010).

Prison officers or community counselors should support inmates and children who are struggling with the law. This is based on the provisions of his Regulation No. 41 of 2017 of the Minister of Justice and Human Rights of the Republic of Indonesia on the



Implementation of the Community Advisor's Functional Position. Because we provide support that focuses on resolving children's worries, the future of children will surely change for the better. A call to justice, an approach aimed at achieving a concrete and dynamic interaction between the parties, is one of the elements and the embodiment of this value. The aim is to create an environment that promotes the interests of victims, perpetrators, communities and societies and does not endanger them.

In addition to their role as mentors, community counselors have the duty and role to conduct community research to identify the background of clients who correct children. The research process assesses your child's risks and needs. This assessment is an important part of creating a community research report (Litmas) to derive mentoring program recommendations based on the needs of the target child. Litma during the stages of the investigative process may take the form of a litoma distraction, a litoma session, a litoma dealing with children under the age of 12, or a litoma witness/victim.

Perkapolri No. 8 of 2021 on Restorative Justice-Based Crime Prevention gives correctional institutions a role through community development specifically relevant to drug-related crime among drug addicts and victims of substance abuse. The role here is based on a joint agreement between the Supreme Court, MENKUMHAM, MENKES, MENSOS, AGO, the Chief of National Police, BNN 2014, and Review of Drug Addicts and Substance Abuse Victims in Institutional Rehabilitation, Integrated Review Team.

Meanwhile, the adult perpetrators are under investigation. Community counselors can conduct community investigations of adult offenders and suspects, but due to the lack of regulation regarding the existence of correctional facilities, community investigations of adult suspects are currently not conducted. Additionally, the preliminary decision phase will be supported by community research on treatment programs for inmates. State correctional institutions (Rutan) identify factors that deprive prisoners of due process and knowledge.

Regulation No. 41 of 2017 of the Minister of Justice and Human Rights does not mention the role of correctional institutions in the case of adult suspects in the prosecution process. Assisting adult suspects is a very important part of the restorative justice process and is at the forefront of the restorative justice we seek to achieve, so it does not replace the position of an attorney. Restorative justice puts the victim's interests first by encouraging the perpetrator to recognize her mistakes and the consequences of her actions. Perpetrators are encouraged to take responsibility for the crimes they commit and to compensate for the damage caused in order to have a chance of being accepted by the victims and the community (Hermann, D; 2017) Communities can play a role as initiators, facilitators, mediators and motivators in applying corrective and restorative justice through counselors. Pursuant to Prosecutor's Order No. 15 of 2020, the 2021 Prosecutor's Guide will cover only certain crimes, and the community, in cooperation with its advisers, will seek to identify those crimes through. The adult suspect's risk of reoffending is such that it can be taken into account in determining suitability for trial at the time of prosecution.

The correctional facility's role during the trial stage is to help the adult defendant make recommendations during the trial. This is in line with Minister of Justice and Human Rights Decree No. 41 of 2017 and his Minister of Justice Decree No. 22 of 2016 on Strengthening State Institutions and Bureaucracy. This is consistent with the Attorney General's circular finding that peace between offenders, victims, and offenders' families is a manifestation of this restorative justice. Victims and communities associated with non-compensatory cases. Unfortunately, as seen in the previous rule, no correctional facility was involved in this case. Community counselors can provide litmus insight into risk factors for recidivism and the need for adult suspects to minimize recidivism. A peace treaty will be included taking into account the decisions of judges, but joint investigations will continue to be considered and the juvenile court system will also be considered.

Similarly, the Attorney General's circular on restorative justice in women's cases divides women into offenders and victims. With respect to offenders, community counselor correctional services operate at this level to assist female offenders and help judges better understand how crimes were committed and read out in court. Submit the results of the area survey to the judges. Criminal law aims to enable judges to take this into account when



making the right decisions. Abusers, addicts, drug addicts, victims of abuse, drugs they only use every day.

As Consedin notes, philosophically, the concept of restorative justice includes the restoration of the victim's condition, the forgiveness of the offender's actions, the victim's integrity, and the offender's return to the community. It is included (Arnie, Sumiati; 2020):

"We must discover a philosophy that leads from punishment to reconciliation, from revenge on the perpetrator to healing of the victim, from negativity and destructiveness to forgiveness and compassion. There are striking examples of positive philosophies that embrace a wide range of human emotions, including reconciliation and sanctions where appropriate".

Similarly, the Justice and Reconciliation Center statement speaks to restorative justice (Justice and Reconciliation Centre; 2020):

"Restorative justice is a theory of justice that emphasizes redressing the damage caused by criminal acts. It is most effective when the parties themselves decide together how to do this. We will change. We can do it".

The prison system is familiar with inmate rehabilitation programs. Integration means restoring unity of housing, living and living conditions among inmates and inmate communities. In this case, consolidation can take the form of Equality, Conditional Leave (CB), Probationary Period (PB), and Early Retirement Leave (CMB). All forms of this integration are coaching programs to integrate prisoners and children into community life after meeting predetermined requirements. One of the necessary requirements is the result of community research. This study provides background information on prison clients who have committed crimes and allows us to assess the need for rehabilitation and adaptation to client needs to prevent recidivism.

Through this social inquiry, restorative justice can be applied. The content of the community survey includes a section describing how victims respond to the Correction Customer (Criminal) Consolidation Program. Knowing the victim's reaction is very important, because it is the victim who actually feels the direct loss from the crimes committed by the perpetrator. This is the essence of restorative justice that can be used to listen to victims and examine the level of risk in re-victimizing inmates (criminals) to keep themselves and their communities' safe gain. Thus, equating the concept of restorative justice with the pre-decision stage needs to be revisited in terms of victim response.

Regarding the broader concept of restoring justice, UNODC says:

"Forensic recovery techniques have been used primarily before, after, and after prosecution in the criminal justice system, but in recent years, these techniques have been increasingly used at various stages of orthodontics and enforcement. Rise in crime, litigation settlements involving victim-perpetrator arbitration may be used for other forms of proposition and other local regulators. Remedial actions extend to observation. Occasionally inspector may view offender participation in the rehabilitation process as a potentially positive factor in probation service decision-making: inspectors may facilitate mediation under the terms of probation and provide offenders with me can refer you to a recovery program. In some countries, the Ministry of Justice has a policy of integrating victims into prison administration. In Belgium this was achieved by appointing a judicial counselor for recovery in each prison. Corrective measures can be used in correctional facilities to reduce the more negative aspects of prison life. This includes forums for inmates to resolve disagreements peacefully and offer alternative methods of conflict resolution for rehabilitation programs. In some countries, departments of justice have adopted policies aimed at involving victims in prison administration. In Belgium, this includes appointing legal counsel to provide legal assistance in each prison. The goals of the rehabilitation process are to provide a forum for inmates to resolve their differences amicably and peacefully, to provide alternative means for resolving conflicts, and to reduce the negative characteristics of prison life. It can also be used in prison. This is accomplished by appointing a judicial counselor on recovery in each prison. The goals of the rehabilitation process are to provide a forum for inmates to resolve their differences amicably and peacefully, to provide alternative means for resolving conflicts, and to reduce the negative characteristics of prison life. This is



accomplished by appointing a judicial counselor on recovery in each prison. The rehabilitation process provides a forum for prisoners to resolve their differences amicably and peacefully, provides an alternative means of conflict resolution, and reduces the negative characteristics of prison life. It can also be used in prison".

This concept is in line with Law No. 22 of 2022 Amendment and Penal Code on alternative crimes such as surveillance to harm the victim of a crime and/or the victim's family. The role of correctional institutions in rehabilitation programs using the concept of restorative justice is based on Minister of Justice Decree No. 41 of 2017, which encourages community research activities to solve early social problems. We start by complying with applicable legal and regulatory requirements. It also assesses the risks and needs of transferred prisoners. From a rehabilitation program perspective, it would be ideal for the perpetrator to meet with the victim or community through a counselor to hear the views of all stakeholders and reach a common consensus. In the implementation process, according to the concept, restorative justice provision should be made available to parties, not as a voluntary service (Shapland, Joanna, E; 2020).

CONCLUSION

Correctional as a sub-device of crook justice performs an important and strategic feature in resolving crook instances thru restorative justice. Penitentiary thru Law Number 22 of 2022 is now no longer the very last device within side the route of the crook manner of a case, except that it furthermore performs a feature now no longer most effective in regulation enforcement on the adjudication stage, however furthermore in coaching, mentoring, and supervising from pre-adjudication to post-adjudication. Restorative Justice as a crook paradigm that specializes in restoring the precise situation, particularly the recovery of victims, perpetrators and the community, In fact, it could most effective be done if all additives in a crook justice device encompass regulation enforcement officers, which include the Police, Prosecutors, Judicial Institutions beneath the auspices of the Supreme Court, and the Correctional System beneath the auspices of the Ministry of Law and Human Rights in synergy with every different and supported via joint technical rules concerning the implementation of restorative justice for juvenile and person perpetrators. The correctional device seeks to create social reintegration in an effort to put together lawbreakers in case you need to get better their lives, lives and livelihoods if you want to emerge as people who can stay normally, rule the regulation, are accountable and established via the community.

The existence of Law No. 22 of 2022 on Correctional Institutions has opened and clarified the position of correctional institutions in the criminal justice system. There are no general or technical rules that have been adopted as a legal umbrella for law enforcement agencies. A referral is required under the auspices of the Department of Justice and Human Rights, common guidelines for the application of restorative justice to adult actors are still contained in the respective internal rules of the courts of institutions such as the Supreme Court.

Additionally, law enforcement officers should recognize community counseling as law enforcement officers appointed by law to perform the function of counseling communities through community investigations.

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