



INTEGRAL CRIME CONTROL IN THE PERSPECTIVE OF CRIMINAL POLITICS

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Abstract:

The research in this paper aims to find out how crime prevention can be carried out through an integral criminal political approach and whether the handling of crime is as expected. This research is normative by using statutory and conceptual approaches and expert opinions. Crime can be seen from two aspects, namely, from a social perspective. Crime is all kinds of actions and actions that can cause harm, disturb peace and balance, and violate societal norms. Meanwhile, from a formal point of view, crime is an act that violates the law or law, and the perpetrators can be subject to sanctions in the form of imprisonment, fines, and others. The study concluded that integral crime prevention through a criminal political approach could be carried out in a penal and non-penal manner. Through an approach with penal means that focuses more on the repressive nature (suppression/eradication) after the crime has occurred. Meanwhile, non-penal means focusing more on preventive nature (prevention/control) before a crime occurs. Penal means can be carried out through the criminal justice system, namely by applying criminal sanctions as stipulated in the Criminal Code, in particular Article 10 of the Criminal Code, which regulates the types of punishment. In addition, criminal sanctions can be used through other laws and regulations that regulate criminal provisions (Article 103 of the Criminal Code). Crime prevention, through an integral political approach with penal and non-penal means, is intended to improve the perpetrators of crimes, prevent crimes from occurring so that victims do not arise, and, more importantly, in the framework of social defense and social welfare.

Keywords: Crime Control, Criminal Politics.

Abstrak:

Penelitian dalam tulisan ini bertujuan untuk mengetahui bagaimana penanggulangan kejahatan dapat dilakukan melalui pendekatan politik kriminal secara integral, dan apakah penanganan kejahatan tersebut telah sesuai yang diharapkan. Penelitian ini bersifat normatif dengan menggunakan pendekatan perundang-undangan dan pendekatan konseptual serta pendapat dari para ahli. Kejahatan dapat dilihat dari dua segi, yaitu : dari segi sosial, kejahatan adalah segala macam perbuatan dan tindakan yang dapat menimbulkan kerugian, mengganggu ketentraman dan keseimbangan dan melanggar norma-norma masyarakat. Sedangkan dari segi formal, kejahatan adalah perbuatan yang bersifat melanggar hukum atau undang- undang dan kepada pembuatnya dapat dikenakan sanksi hukuman baik berupa hukuman penjara, denda, dan lain-lain. Hasil penelitian menyimpulkan bahwa penanggulangan kejahatan secara integral melalui pendekatan politik kriminal dapat dilakukan secara penal dan non penal. Melalui pendekatan dengan sarana penal lebih menitik beratkan pada sifat represif (penindakan/pemberantasan) sesudah kejahatan itu terjadi. Sedangkan dengan sarana non penal lebih menitik beratkan pada sifat preventif (pencegahan/pengendalian) sebelum kejahatan terjadi. Dengan sarana penal dapat dilakukan melalui sistem peradilan pidana, yaitu dengan menerapkan sanksi pidana sebagaimana diatur dalam KUHP, khususnya Pasal 10 KUHP yang mengatur jenis-jenis hukuman. Selain itu penggunaan sanksi pidana dapat juga dilakukan melalui peraturan perundang-undangan yang lain yang mengatur

secara jelas ketentuan pidananya (Pasal 103 KUHP). Penanggulangan kejahatan melalui pendekatan politik secara integral dengan sarana penal dan nonpenal, dimaksudkan untuk memperbaiki si pelaku kejahatan, mencegah terjadinya kejahatan supaya tidak timbul korban, serta yang lebih penting adalah dalam rangka usaha perlindungan masyarakat (*social defense*) dan kesejahteraan masyarakat (*social welfare*).

Kata Kunci: Penanggulangan Kejahatan, Politik Kriminal.

A. Introduction

Indonesia is a constitutional state (*rechtsstaat*) not based on power (*machtstaat*) (Sholihin, 2008). This provision implies that all aspects of state administration must be based on the law (*rechtsstaat*). The administration of the Indonesian state is based on law, based on the values of Pancasila as the source of all sources of state law and the 1945 Constitution of the Republic of Indonesia as the highest law from the perspective of the hierarchy of current laws and regulations (Hidayat Ur Rehman et al., 2021). To realize the concept of the rule of law (*rechtsstaat*), it is necessary to understand the law as a unified system. As a legal state, Indonesia already has all statutory regulations, which were formed by various institutions authorized to make them and designated to realize the fulfilled interests of society (Kejaribone, 2020).

Today's globalization and modernization have impacted technological advances, especially in Information Technology (Insya Musa, 2015). This makes everyone of all groups and ages free to access social media, which causes a shift in values in the social system in society (Suneki, 2012). The easier it is for humans to interact with each other, the greater the possibility of negative interactions arising (Nur Inayati, 2019). It can cause harm to one of the parties, leading to crime or criminal acts.

A criminal act itself is a crime that is not only formulated by the criminal law code as a crime or a criminal act. In a broad sense, this relates to the problem of delinquency, deviation, and the changing quality of crime (Bunga et al., 2019). The process of criminalizing and discriminating against a crime considering the place, time, interests, and policies of the ruling class and outlook on life-related to social, economic, and cultural developments at a specific time and place (., 2018).

Crime is a social phenomenon that will always be faced in human life, society, and even the state (Ali & Lukman, 2019). Reality has proven that crime can only be prevented and reduced, but it is difficult to eradicate it. Today's crime knows no age limit because children and adults have become perpetrators of criminal acts. In the digital era of information technology, crime does not know who the victim is because anyone can become a victim or perpetrator of a crime. Therefore, current crime prevention must be integrated into the face of current crime developments that tend to be extraordinary crimes (Alfianto, 2019).

Alleviation of crime is the obligation of the Indonesian state to guarantee the protection of the Indonesian people, and all their blood is spilled following the state constitution's mandate (Junaidi, 2021). One of the ways to protect against threats or potentials that give rise to crime can be overcome by increasing social welfare, namely through reasonable efforts to improve people's welfare, and policies regarding social defense planning must also be included. The rational form of social protection planning for tackling crime is commonly referred to as Criminal Politics. The ultimate goal of criminal politics is Community Protection to achieve the main goal, which is often referred to by various terms, namely "the happiness of the people," "a healthy and

refreshing cultural life,” “tolerance in religious life,” “public welfare or achieving balance.” Current criminal political policies can be implemented directly or indirectly. Policies that are directly related to the law enforcement process, while policies that are indirectly related to crime prevention, such as policies for structuring residential areas in urban areas, structuring buildings in trade and industrial areas, which, if not appropriately arranged and have the potential to become a criminogenic factor in the occurrence of crime directly (Wahyu et al., 2021).

According to Karl O. Christiansen, criminal politics is making plans for the future in dealing with or overcoming crime-related problems (Waaben, 1976). Included in this plan, namely, apart from formulating what actions should be taken against criminal acts, it also determines the sanctions that should be imposed on the offender. The analysis of the above matters cannot be separated from the integral conception of criminal policy, social policy, or national development policy. This means that solving the above problems must also be directed at achieving specific goals from the social and political policies that have been set (RASKIN, 1979).

Based on the above understanding, the approach that must be used in Criminal Law Politics is that in addition to a normative juridical (penal) approach, it also requires a factual/empirical (non-penal) juridical approach in the form of a sociological, historical, and comparative even comprehensive approach from various other social disciplines and an integral approach to social policy and national development in general. Countermeasures can also be carried out by related institutions, especially the police agency, and the function of the police institution itself is regulated in Law Number 2 of 2002 concerning the Police of the Republic of Indonesia, namely maintaining security and public order, enforcing the law as well as protecting the community, and provide protection as well as services to the community. In the provisions of Article 2 of the Law a quo, it is explained that the function of the police is one of the functions of the state government in the field of maintaining public security and order, law enforcement, legal protection, protection, and service to the community which is integrated with the Attorney General’s office and the Corruption Eradication Commission (KPK) in particular. So based on the background above, in principle, this research will examine and analyze the general overview of crime and how the concept of criminal politics and crime prevention are integrated.

B. Research Method

This writing is considered normative legal research focusing on literature studies (Marzuki, 2008). By making comparisons with Scientific Papers/Writings related to the theme references closest to the same as this writing. The writing of this article also uses a statute approach, namely examining legislation to serve as a basis for analysis, as well as carrying out a conceptual approach, namely by starting from the opinions of experts or the doctrines and legal principles needed to analyze the issues to be focused on. The data used is secondary data, namely data sourced from literature studies.

C. Discussion

1. Overview of Crime

Crime in human life develops in line with the development of human civilization and has always been a human problem that causes bad feelings for human life. Crime comes unexpectedly and cannot be avoided, so there is no choice for the community; whether they like it or not, they have to be able to deal with the

crime. They are the perpetrators of crimes not only because they are carried out because of the opportunity but because they intend to commit crimes.

From a criminological point of view, if any specific actions or actions committed by a person/group and considered wrong and can cause harm to society, then this can be said to be a crime. This is because the act of crime does not have to be formulated in advance in a criminal law regulation. If the act committed has harmed, endangered, and is disliked by the community or even detrimental to the community, then the act is considered an anti-social act and can be said to be a crime (Muliadi, 2015).

As quoted by L. Muljatno, according to J.M. van Bemmelen, crime is every harmful (damaging) and immoral act that causes such a disturbance in a particular society so that the community has the right to denounce and fight against the behavior by deliberately imposing a pain (suffering) on the perpetrator of the act (retaliation). Meanwhile, J.E. Sahetapy argues that crime can be seen from two aspects, namely, from a social perspective, where crime is all kinds of actions and actions that can cause harm, disturb peace and balance, and violate the norms of society. Meanwhile, when viewed from a formal perspective, crime is an act that violates the law or law, and the perpetrator can be subject to punitive sanctions in the form of imprisonment, fines, and others (Mustofa, 2020).

In contrast to the concept of crime as stated by the two experts above, according to Sue Titus Reid, an act that is categorized as a crime according to law is: First, crime is an intentional act; Second, crime is a violation of criminal law; Third, the evil act was committed without a legally recognized defense or justification; Fourth, crime is an act or violation that is sanctioned by the State (Carroll & Reid, 1977).

Whereas in the Criminal Code (*Wetboek van Strafrecht*), as stipulated in Book II, only an overview is obtained about which actions qualify as crimes (*mijsdriven*). Book III, it defines violations (*overtredingen*). Meanwhile, the definition of crime itself is not clearly stated, and there are only qualifications for activities that are declared criminal acts. The division is based on the difference between a legal offense (*rechtsdelict*) and a statutory offense (*wetsdelict*) (Krisberg et al., 1976).

According to positive criminal law, crime is limited to actions that have been expressly regulated in the provisions of criminal law, as an act that is prohibited by imposing threats in the form of a crime. In its development, criminal law provisions have not regulated many crimes. However, the application of the principle of legality as stipulated in the provisions of Article 1 paragraph (1) of the Criminal Code states that an act can only be punished with a crime if it is determined in advance by the laws and regulations that apply before the act is committed.

2. Criminal Politics and Integral Crime Control

One of the policies for overcoming the crime problem is criminal policy. Criminal policy or criminal politics is part of social policy in terms of overcoming the problem of crime in society, both by penal and non-penal means (Schiaffo, 2021).

Criminal politics is integral to protecting society (social defense) and achieving social welfare. Therefore, it can be said that the ultimate goal or main goal of criminal politics or criminal policy is protecting society to achieve social welfare. Thus, it can be said that criminal politics is also an integral part of social politics.

Efforts to tackle crime and criminal politics can be described in various forms, among others: (Meixner, 2015)

1. Criminal law application;
2. Prevention without punishment; and
3. Influencing views of society on crime and punishment.

Criminal Policy in the Indonesian rule of law needs to be pursued with a policy approach, in the sense that there is integration between criminal policies and social policies. The criminal policy includes a penal policy (criminal law), namely criminal law application, and a non-penal policy (not criminal law). However, theoretically, crime prevention efforts, according to G.P. Hoefnagels, namely the criminal law application, prevention without punishment, and influencing views of society on crime and punishment/mass media. (Shiner, 2009).

So crime prevention through an integral criminal political approach, as G.P. Hoefnagel's opinion said, two approaches can be taken, which are reflective through penal/criminal law application efforts or can also be carried out through non-penal means/prevention without punishment. Efforts to tackle crime integrally with penal means focus more on the repressive nature (enforcement/eradication) after the crime has occurred—meanwhile, non-penal means focusing more on preventive nature (prevention/control) before a crime occurs. Penal means can be carried out through the criminal justice system, namely by applying criminal sanctions as stipulated in the Criminal Code, in particular Article 10 of the Criminal Code, which regulates the types of punishment. In addition, criminal sanctions can be used through other laws and regulations that regulate criminal provisions (Article 103 of the Criminal Code) (Bass, 2020).

Thus it can be said that tackling crime by penal means is carried out by using criminal law as its primary means, namely material criminal law, formal criminal law, and its implementation through the Indonesian criminal justice system (Bowden et al., 2022).

Meanwhile, tackling crime through non-penal means, according to Barda Nawawi Arief, said that first needs to be explored, developed, and utilized all the potential support and participation of the community to streamline and develop the “extra-legal system” or “informal and traditional system” that exists in society (Leszczyński, 2020).

Crime prevention through an integral political approach through penal and non-penal means is intended to improve the perpetrators of crimes, prevent crimes from occurring so that victims do not arise, and, more importantly, in the framework of social defense and social welfare. Efforts to deal with crimes committed must also involve all members of society who have the potentials that are useful in achieving people's welfare.

To determine an act as a crime, it is necessary to pay attention to the general criteria as follows:

1. Is the act disliked or hated by society because it is detrimental, or can cause harm, bring victims, or can bring victims?
2. Are the costs of criminalizing commensurate with the results to be achieved, meaning that the costs of making laws, monitoring and enforcing the law, as well as the burden borne by the victims, the perpetrators of the crimes themselves, must be balanced with the legal and orderly situation to be achieved.

3. Will it increase the burden on law enforcement officials who are not balanced or cannot be carried by their capabilities?
4. Does the act impede or hinder the nation's ideals, so it threatens the whole society?

Furthermore, the most strategic non-penal handling is all efforts to create a healthy social and living environment both materially and immaterially for the community. All layers of society, with all their potential, must be used as the main supporting factors in efforts to overcome crime. The potential of the community needs to be explored, utilized, and developed, as well as made effective, for example, raids/operations carried out by police officers in certain places prone to crime, carrying out community service-oriented activities, and various efforts to utilize the potential available in community life.

By optimizing non-penal handling, the efforts to overcome crimes that occur in society do not have to rely on penal means alone but also need to be supported by non-penal means within the framework of integral criminal politics to achieve its goals, namely efforts to protect society and the welfare of society.

D. Closing

From what has been described above, it can be concluded that crime is highly complex because it relates to actors who cannot be expected to commit crimes. Crime comes unexpectedly and cannot be avoided, so there is no choice for the community. Like it or not, they must be able to deal with this crime, so they don't become victims, and efforts to deal with it can be carried out integrally through a criminal political approach. The success of crime prevention is not only done by penal means, which have limitations but also needs to be supported by integral non-penal means. As a suggestion in the context of the success of crime prevention efforts through an integral criminal political approach, it is better to explore the potential of the community how to deal with and avoid crimes that will hit them by utilizing the preventive potential of law enforcement officials so that before knowing the existence of criminal acts the community can anticipate them first.

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