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POLITICAL ECONOMIC CORRELATION WITH POLITICS IN THE FIELD OF CRIMINAL LAW ENFORCEMENT

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Abstract: *Activities in the economic sector require law as a basis and at the same time policy legitimacy to achieve national goals so that it is a necessity if the two disciplines of economics and law are seen as unable to ally in advancing the Indonesian people. Furthermore, according to Romli Atmasasmita, an economic analysis of law that uses the principle of maximization of balance (equilibrum) and efficiency (efficiency) with the "cose and benefit ratio" approach is expected to contribute to realizing legal ideals, certainty of justice and definite and measurable benefits. . The type of legal research that is carried out in a normative juridical manner is normative juridical where law is conceptualized as what is written in laws and regulations. The types of punishment applied to convicts tend to be conventional. Imprisonment sentences, fines, payment of compensation money, are some examples of the types of punishments imposed on convicts. However, no studies in Indonesia have been conducted to determine the extent to which these punishments are effective in reducing crime or deterring criminals.*

Keywords: *Political Correlation, Economic Politics, Criminal Law Politics*

A. Background

The 1945 Constitution and its amendments, in CHAPTER I expressly stated, Indonesia is a state of law, while in CHAPTER XIV it regulates Social Welfare. Based on the adigium mentioned above, close cooperation and synergistic steps are needed between (political) policies in the economic sector and (political) policies in the legal sector.

According to Prof. Dr. Romli Atmasasmita If the jurists have a strong desire to make law a means of development, the law should also incorporate factors of efficiency, balance and maximization into the two processes.(Atmasasmita 2003).

KActivities in the economic sector require law as a basis and at the same time policy legitimacy to achieve national goals so that it is a necessity if the two disciplines of economics and law are seen as unable to ally together to advance the Indonesian people. Furthermore, according to Romli Atmasasmita, an economic analysis of law that uses the principle of maximization of balance (equilibrum) and efficiency (efficiency) with the "cose and benefit ratio" approach is expected to contribute to realizing legal ideals, certainty of justice and definite and measurable benefits. .

Economic thought in law dates back to the 1960s. In that year, according to Laurdes A. Sereno in Choky Ramadhan, economists such as Ronald Coase and Guido Calabresi had written economic analyzes in the realm of civil and business law.(Ramadan 2016). Ronald Coase in Choky Ramadhan writes in "The Problem of Social Cost" which analyzes the limited resources that make a person or organization choose the most profitable decision for him. Meanwhile, Guido Calabresi in Choky Ramadhan also wrote "The Costs of Accidents-A Legal and Economic Analysis" which analyzes the costs due to accidents.

These costs are primary costs (treatment and damage to goods), secondary costs (economic costs incurred when victims fail to compensate), and tertiary costs (costs of anticipating losses, primary and secondary costs). Policy makers need to determine the most appropriate legal and economic policies to minimize accidents and compensate accident victims taking into account these costs.

Richard A. Posner in Choky Ramadhan regards Calabresi as a legal expert who determines a new step in legal thought (marks a new direction in legal scholarship). According to him, Calabresi at the same time "criticized" the approach of legal experts so far in analyzing laws that are still traditional (conventional) by analyzing cases to determine the right law.

Economic thinking in reforming criminal policy was first conveyed by the Nobel Laureate laureate, Gary S. Becker. In 1968, Becker in Choky Ramadhan emphasized the importance of analyzing the use of resources (money and people) allocated to prevent and act on crimes. Furthermore, Becker also stated that the prison sentence imposed on the perpetrator not only failed to compensate the victim, but the victim was also required to pay the costs of the sentence. The payment that Becker meant was that the tax money paid by the victim was actually used for the operational costs of convicting an offender, such as food and the salary of a prison guard. Becker's main question in the article related to what actions should be regulated as a crime,

Based on the things that have been described above, this paper was appointed with the title, Correlation of Political Economy with Politics in the Field of Criminal Law Enforcement.

B. Literature review

The principles of microeconomics consist of efficiency, balance and maximization while the goals and ideals of law are justice, legal certainty and expediency.(Atmasasmita 2003).

Furthermore, according to Romli Atmasasmita, efforts to harmonize and relate the four variables in a criminal law ecosystem where justice turns out to be compatible with efficiency in the sense that every justice seeker has felt the real results of the legal efforts that have been carried out in the judicial process and

also the impact on changes in their fate after the judicial process. the.(Atmasasmita 2003)

The balance coupled with legal certainty must mean that the benefits expected from the criminal act by the person concerned have been enjoyed and therefore given a sentence commensurate with the losses that have been suffered by the victim because of the crime. Then, if the balance is juxtaposed with justice, it will lead to a ratio of lawbreakers who must receive the best punishment resulting from their actions, while justice seekers can receive a punishment commensurate with the actions of the convicted person.

The current criminal system, more fighting for justice on the side of the perpetrators of criminal acts rather than justice for the victims. Based on the fact that the criminal system's inability to punish commensurate with the losses incurred causes the failure of the current criminal system to provide justice to victims and does not have factors that deter perpetrators, especially for its function as legal deterrence (General Deterrence). Thus the inequality of criminal law towards the perpetrator ensures that the current criminal law does not give a sense of justice to the victim. So that automatically has no deterrent factor (deterrent) if the perpetrator still benefits even after being punished(Gunawan 2015).

According to Romli Atmasasmita, the ideals of law in the future are as follows(Atmasasmita 2003), criminal law that relies on the existence and absence of mistakes (schuld) of an act (daad) which is used as a means to determine whether or not a criminal sanction is necessary is not the only measure of success (output) but must be tested to what extent the criminal threat for wrongdoing these actions have a constructive and positive impact on both the perpetrator and the victim and society as a whole (Outcome).

C. Formulation of the problem

1. How is Economic Policy on Criminal Law Enforcement?
2. How is the correlation between economic politics and politics in the field of criminal law?
3. What is the political paradigm of criminal law in the future?

D. Research Methods

Research methodsis a process of collecting and analyzing data that is carried out systematically, to achieve certain goals(Hanifah 2022). .The type of legal research that is carried out in a normative juridical manner is normative juridical where law is conceptualized as what is written in laws and regulations (law in books) or law is conceptualized as rules or norms which are benchmarks for human behavior that are considered appropriate.(Asikin 2012).

E. Discussion

1. Economic policy towards criminal law enforcement.

Various phenomena that occur in the realm of law, often have no small economic impact. Explicit economic losses due to criminal acts of corruption that have received decisions from the Supreme Court (MA) from 2001-2009 amounted to IDR 73.07 trillion (2008 prices). However, the total value of the financial penalties handed down to the corruptors was Rp. 5.32 trillion, so the implication is that the losses due to corruption that were not borne by the corruptors amounted to Rp. 67.75 trillion which is the responsibility of the taxpayer in the payment. Every crime always has economic implications. The same thing also happened in the realm of civil law. The Temasek case shows that despite the decline in consumer surplus due to Temasek's business practices it has reached IDR 14 trillion. However, Temasek was only fined Rp. 25 billion(RAS 2015).

In Indonesia, the types of punishment applied to convicts tend to be conventional. Imprisonment sentences, fines, payment of compensation money, are some examples of the types of punishments imposed on convicts. However, no studies in Indonesia have been conducted to determine the extent to which these punishments are effective in reducing crime or deterring criminals.

The facts above show that legal phenomena cannot be separated from economic aspects. Criminal Economics or Crime Economics or Law and Economics is a branch of economics that focuses on economic analysis in the field of law and regulation. The scope of discussion in Criminal Economics is not only limited to criminal acts that are directly related to economic aspects (eg corruption, money laundering, fraud, etc.), but also various other conventional crimes (eg theft, murder, rape etc.) and organized crime (eg. drug trafficking, terrorism, human trafficking, child prostitution, etc.). Economics of Crime also discusses phenomena that occur in civil law, for example related to business competition, divorce, tax courts, and so on.

The government arguesspecifically to eliminate colonial elements in the economic structure of our country in vital business fields for the national economy(Rachmad Abduh 2020).Criminal economics is a relatively new branch of economics in Indonesia and has not received much attention, either from economists or from legal experts and practitioners. Various legal processes and decisions in Indonesia only consider legal aspects and have not considered economic aspects. Furthermore, in Indonesia, the preparation of oversight mechanisms, the imposition of legal sanctions, the incentive system and the preparation of the formation of new institutions as outlined in laws, often weigh more heavily on legal aspects than economic ones. Legal sanctions in Indonesia

often do not create a deterrent effect on criminals. The Corruption Law states that the maximum fine for corruptors is IDR 1 billion, regardless of the amount of money that the corruptor has successfully corrupted.

2. Political Economy Correlation Against Criminal Law Enforcement

These sentences prove that all activities in the economic sector require law as a basis and at the same time policy legitimacy to achieve national goals so that it is a necessity if the two disciplines of economics and law are seen as unable to ally in advancing the welfare of the Indonesian nation. Furthermore, according to Romli Atmasasmita, an economic analysis of law that uses the principle of maximization of balance and efficiency with the "cose and benefit ratio" approach is expected to contribute to realizing legal ideals, certainty of justice and definite and measurable benefits.

3. Political Paradigm of Criminal Law in the Future.

The development of the Indonesian legal system since the colonial period, according to Prof. Romli Atmasasmita distinguished 4 (four) legal theories(Atmasasmita n.d.).

a. Colonial legal theory (which is repressive in nature)
b. Development Law Theory
c. Progressive Law Theory
d. Integrative Law Theory

Of the four developments in the legal system put forward by Prof. Romli Atmasasmita mentioned above, it will be discussed which one is more in line with the Indonesian legal system in the future.

Colonial legal theory which is repressive in nature will not be discussed in this paper, then it will be continued with the Theory of Development Law which was popularized by Prof. Muchtar Kusumaatmadja.

Development Law Theory, placed on the premise that the core teachings or principles are as follows;

1) All developing societies are characterized by change and law functions to ensure that change occurs in an orderly manner
2) Both change and order (or regularity) are the original aims of a developing society
3) The function of law in society is to maintain order through legal certainty and law (as a social rule) must be able to regulate (assist) the process of change in society.
4) Good law is law that is in accordance with living law (The Living Law) in society, which of course is also appropriate or a reflection of the values that apply in that society.

5) The implementation of the legal function mentioned above can only be realized if the law is carried out by one power itself, it must run within the limits of the signs specified in that law.

Meanwhile, the view of progressive legal theory pioneered by Prof. Satjipto Rahardjo is an exploration of an idea that has 9 main points as follows:(Rahardjo 2009).

1) Law rejects the tradition of analytical jurisprudence or rechtdogmatiek and various schools of thought such as legal realism, freirechslehre, sociological jurisprudence, interessen jurisprudence in Germany, natural law theory and critical legal studies.
2) The law rejects the opinion that order (order) only works through state institutions
3) Progressive law is intended to protect the people towards the ideal law
4) Law rejects the status quo and does not want to make law a technology that is devoid of conscience, but rather a moral institution
5) Law is an institution that aims to deliver people to a just, prosperous life and make people happy.
6) Progressive law is "law that is pro-people" and law that is "pro-justice"
7) The basic assumption of Progressive Law is that "Law is for Humans" not the other way around
8) Law is not an absolute and final institution, but very much depends on how humans see and use it. Humans are the decider.
9) Law is always in the process of continuing to be (law as process, law in the making).

Then the theory of Integrative Law initiated by Prof. Dr. Romli Atmasasmita, is a combination of developmental legal theory and progressive legal theory, in which the developmental legal theory initiated by Prof. Muchtar Kusumaatmdja is a system of norms, progressive legal theory initiated by prof. Satjipto Rahardjo is a legal approach as a system of behavior (system behavior), while integrative legal theory of law is defined as a system of values (system of value).

Integrative legal theory forms a pyramid building of a legal system that is fundamentally different from the views of chaotic and disorder theories about law. This legal theory views that within the pyramid structure of the legal system, interactionist and hierarchical relations are formed between value systems, norm systems and behavior systems in a single social system. Integrative legal theory differs sharply from conflict theory and reinforces the notion that the theory of deliberation and consensus (negotiated and agreed) or the theory of two-way dialogue (mutual dialogue approach) is the key word for success in playing the function of law as a means of societal renewal.

Integrative legal theory provides alternative solutions to legal problems in society and disagrees with chaotic legal theory and asymmetric legal theory which always opposes the interests of society and the interests of the state and places them in a position facing each other, and not side by side.

In national development, including law formation and law enforcement, integrative legal theory not only confirms how law should play a role in people's lives but can also be used as a parameter:

1. To assess the unity and integrity of the nation within the Unitary State of the Republic of Indonesia
2. The success of law enforcement is in accordance with the soul of the nation
3. The process of harmonization of international law becomes part of the national legal system.

From the point of view of legal development interests, Indonesia is facing global challenges, both in the economic, financial and trade fields as well as challenges or threats of globalization as a side effect of global economic globalization. The solution to the global threats and challenges of the 21st century recommended by the UN requires recognition and application of the concept of "Collective Security Responsibility of States" (CSR) a concept (21st century) that is fundamentally different from the concept of state responsibility to protect its citizens (State Responsibility to Protect – SRP). This shift in international concept in addressing the threats and challenges of the 21st century international community must be studied carefully and with a high level of vigilance. This is because the concept of CSR is very vulnerable to the toughness of a country's sovereignty. Even,

The new paradigm of criminal law in the future should adhere to the principle**There is no crime without mistakes and no mistakes without benefits.**

F. Conclusions And Recommendations

Conclusion

1. That phenomena that occur in the realm of law, often have no small economic impact. Explicit economic losses due to criminal acts of corruption that have received decisions from the Supreme Court (MA) from 2001-2009 amounted to IDR 73.07 trillion (2008 prices). However, the total value of the financial penalties handed down to the corruptors was Rp. 5.32 trillion, so the implication is that the losses due to corruption that were not borne by the corruptors amounted to Rp. 67.75 trillion which is the responsibility of the taxpayer in the payment. Therefore, a legal policy is needed to restore state losses for the prosperity of the people.

2. Whereas the integration and relevance of law and economics in national development has in fact been mandated in the 1945 Constitution Chapter I Article 1 paragraph (3) states that Indonesia is a constitutional state and a unitary state in the form of a republic (Article 1 paragraph (1)) and in Chapter XIV, The national economy and social welfare in Article 33 paragraph (1) states that the economy is structured as a joint venture based on the principle of kinship, and the branches of production which are important for the state and affect the livelihood of the public are controlled by the state (paragraph 2), and paragraph (4) which reads that the national economy is organized based on democracy, an economy with the principles of togetherness, fair efficiency, sustainability, maintaining a balance of progress and national economic unity.
3. Whereas the paradigm and development of the Indonesian legal system since the colonial period, 4 (four) legal theories were distinguished
    a. Colonial legal theory (which is repressive in nature)
    b. Development Law Theory
    c. Progressive Law Theory
    d. Repressive Law Theory

Suggestion

1. Whereas in imposing a criminal sentence, conditional punishment should be considered for the perpetrator of the crime, because in fact the imposition of corporal punishment in the form of a defendant will also increase the state's expenditure by no small amount.
2. That in order to achieve a change in the paradigm of restorative justice-punishing justice to a restorative justice paradigm, it is necessary to develop human resources for law faculty graduates through changes to the law faculty curriculum based on pracmatical legal realism and sociological jurisprudence using economic analysis so that legal analysis is always guided by maximization, efficiency and balance. .

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B. Legislation

The 1945 Constitution of the Unitary State of the Republic of IndonesiaThe government arguesspecifically to eliminate colonial elements in the economic structure of our country in vital business fields for the national economy