

## CRIMINAL OBJECTIVES INTEGRALITY IN THE INDONESIAN CRIMINAL JUSTICE SYSTEM

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**Abstract:** *The integrality of the criminal justice system must be realized in every aspect of sub-systems, in substance, structure, and legal culture. In this respect, in the process of criminal justice, the three sub-systems' integrality are required so that the criminal justice system is capable to produce fair legal decisions in the process of law enforcement in Indonesia. Until such a policy is undertaken, the law will always be harsh against the poor and weak against the rich. This paper discusses criminal objectives integrality in Indonesian criminal justice system and its influence in the integrated criminal justice system. Using a normative juridical method, this paper demonstrates that each sub-system of criminal justice (the Police, Prosecutors, Courts, and the prison) is in line with the main objectives of criminal law enforcement as found in various laws that govern the institutions.*

**Keywords:** *Integrality, Criminal Objectives, Criminal Justice System, Indonesia*

**Abstrak:** *Integralitas sistem peradilan pidana harus diwujudkan dalam setiap lini sub sistem baik dalam substansi, struktur, maupun budaya hukum. Dengan demikian, dalam proses peradilan pidana, ketiga sub sistem ini diperlukan keterpaduannya (integrality) agar sistem peradilan pidana mampu menghasilkan putusan hukum yang adil dalam proses penegakan hukum di Indonesia. Jika tidak, hukum akan tajam akan ke bawah, namun tumpul ke atas. Tulisan ini mendiskusikan apa dan bagaimana integralitas tujuan pemidanaan dalam sistem peradilan pidana di Indonesia serta pengaruh integralitas tujuan pemidanaan dalam sistem peradilan pidana terpadu. Dengan menggunakan metode yuridis normatif, tulisan ini menunjukkan bahwa masing-masing sub sistem peradilan pidana (Kepolisian, Kejaksaan, Pengadilan, dan Lembaga Masyarakat) seirama dalam tujuan utama penegakan hukum pidana, sebagaimana dapat dijumpai dari berbagai perundang-undangan yang mengatur lembaga-lembaga tersebut.*

**Kata Kunci:** *Integralitas, Tujuan Pemidanaan, Sistem Peradilan Pidana, Indonesia*

## Introduction

The enforcement of criminal law is essentially a systemic process identical to the system of power or authority in law enforcement. Thus, the enforcement system of criminal law which is also called the criminal justice system requires integrality in each of its components.<sup>1</sup> The components consist of legal substance, legal structure, and legal culture.<sup>2</sup> Legal substance includes material criminal law, formal criminal law, and criminal law. Meanwhile, legal structure includes investigation authorities (the Indonesian National Police or civil servant investigators), prosecution (the Public Prosecution Service), adjudication or passing a verdict (the court), and the implementation of a verdict (the prison).<sup>3</sup> Legal culture, according to Friedman, is the most significant component in law enforcement because it comprises perceptions, attitudes, views, values, opinions, etc that live in society and affect the law.<sup>4</sup>

This paper argues that in the criminal justice process, integrality is required between the three apparatuses above<sup>5</sup> so that the criminal justice system is capable to yield fair legal verdicts to construct harmony in law enforcement process in Indonesia. Thus, this paper aims to discuss forms of criminal objectives integrality in the criminal justice system of Indonesia and its influence in the integrated criminal justice system.

Research on criminal objectives was conducted by Marcus Priyo Gunarto in 2009 focusing on criminal attitudes oriented towards criminal objectives.<sup>6</sup> Research by Ismail Rumadan in 2013 focused on problems of the Indonesian prison and the reorientation of criminal objectives.<sup>7</sup> Research by M. Abdul Kholiq and Ari Wibowo in 2016 focused on the application of criminal objectives theory in cases of violence against women.<sup>8</sup> Based on the previous research, there is a difference in research

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<sup>1</sup> Marcus Priyo Gunarto, "Sikap Memidana Yang Berorientasi Pada Tujuan Pidana," *Mimbar Hukum* 21, no. 1 (2009): 93-108.

<sup>2</sup> Barda Nawawi Arief, *Reformasi Sistem Peradilan (Sistem Penegakan Hukum di Indonesia)* (Semarang: Badan Penerbit Universitas Diponegoro, 2017), p. 3.

<sup>3</sup> Ishaq, "Sanksi Pidana Pembunuhan Dalam Hukum Pidana Indonesia Dan Hukum Pidana Islam Sebagai Kontribusi Bagi Pembaruan Hukum Pidana Indonesia," *Al-Risalah* 16, no. 1 (2016): 33-44.

<sup>4</sup> Esmi Warassih, *Pranata Hukum: Sebuah Telaah Sosiologis* (Semarang: Pustaka Magister, 2016), p. 72.

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<sup>5</sup> Syaiful Bakhri, "Pengaruh Aliran-Aliran Falsafat Pidana Dalam Pembentukan Hukum Pidana Nasional," *Jurnal Hukum Ius Quia Iustum* 18, no. 1 (2011): 136-157.

<sup>6</sup> Gunarto, "Sikap Memidana Yang Berorientasi Pada Tujuan Pidana."

<sup>7</sup> Ismail Rumadan, "Problem Lembaga Masyarakat di Indonesia Dan Reorientasi Tujuan Pidana," *Jurnal Hukum Dan Peradilan* 2, no. 2 (2013): 263-276.

<sup>8</sup> M Abdul Kholiq and Ari Wibowo, "Penerapan Teori Tujuan Pidana Dalam Perkara Kekerasan Terhadap Perempuan: Studi Putusan Hakim," *Ius Quia Iustum Law Journal* 23, no. 2 (2016): 186-205.

focus from my research. Despite having an identical theme, which is criminal objectives, this research puts more emphasis on criminal objectives integrality in Indonesian criminal justice system.

This paper employs a normative juridical method which principally uses a statutory approach and a conceptual approach. This approach is used to examine codes and principles of law by referring to secondary data, namely primary, secondary, and tertiary legal materials. The legal materials are applicable laws and regulations, library resources and law journals. The data collection technique in this research is library research that legal materials found are grouped according to some criteria to make it easier to analyze. Based on the analytical descriptive nature of the research, a qualitative analysis is adopted in the analysis of the data in order to reach a desired conclusion.

This paper begins by elaborating the nature of crime and the purpose of punishment. Next, this paper discusses the integrated criminal justice system. Finally, before drawing a conclusion, this paper explains criminal objectives integrality in the integrated criminal justice system in the Indonesian context.

### **Criminal and Its Purposes**

The term criminal is closely related to a misery delivered to someone whether for life (capital punishment), independence (prison), body (flogging), or prop-

erty (compensation, etc).<sup>9</sup> According to Sudarto, "criminal is a misery that is intentionally inflicted on people who commit acts that fulfill certain conditions". The same notion is also stated by Andi Hamzah. According to him, criminal is a misery or suffering resulted from an offense that has been committed, yet the misery or suffering is not a final goal, but rather a means to achieve higher goals.<sup>10</sup> Thus, as explained by Muladi and Barda Nawawi Arief, there are three aspects that must exist in criminal. First, criminal always takes the form of suffering, misery, or other things that are uncomfortable. Secondly, criminal is given by an authorized institution or authority. Third, criminal is given to people who have committed acts which are prohibited by law.<sup>11</sup>

The above definitions of criminal are quite different from that of G.P. Hoefnagels. According to him, criminal is not merely painful and miserable acts, but rather all reactions to criminal acts, ranging from detention, investigation, to a verdict given to a defendant. In short, criminal also refers to the process of a criminal case from beginning to end.<sup>12</sup> This definition is quite logical because if criminal were only interpreted as suffering or a misery, then the meaning of suffering or misery itself would

<sup>9</sup> Muladi dan Barda Nawawi Arief, *Teori-Teori dan Kebijakan Pidana* (Bandung: Alumnus, 2005), p. 2.

<sup>10</sup> Andi Hamzah, *Asas-Asas Hukum Pidana* (Jakarta: Rineka Cipta, 1994), p. 27.

<sup>11</sup> Muladi dan Barda Nawawi Arief, *Teori-Teori dan Kebijakan Pidana*, p. 4.

<sup>12</sup> *Ibid.*, p. 10.

cause debates as for its size, type, method of application, and so on. However, if criminal is interpreted as a process, the aspect of giving misery by an authorized institution will automatically be fulfilled and the aspect of carrying out acts prohibited by law will also be attained.<sup>13</sup>

The most important objective of criminal is the protection of society (social defense).<sup>14</sup> But, this goal must be incorporated into four aspects. First, protection against evil conducts that harms society. The purpose of this aspect is crime control. Second, it deals with protection against dangerous acts of a criminal. The goal of this aspect is to correct perpetrators of crime. Third is protection against arbitrary conducts of authorities in using legal sanctions. In this case criminal aims to limit and regulate the power of the authorities in meting out criminal. Fourth is protection against the imbalance of various interests and values due to a crime. In this case, criminal's goal is to restore the balance of society.<sup>15</sup> In summary, the four aspects above basically point to two main fundamental objectives, namely: first, community protection against or from criminal acts which include crime prevention, community security, and restoration of community

balance by resolving conflicts (conflict *oplosing*) that occur and bring a sense of peace (*vrede* making) in society; secondly, individual protection which includes rehabilitation, reeducation, resocialization (rehabilitating the convicted) so that (a) they do not do acts that harm themselves and others, and in order that they have an attitude that reflects Pancasila, (b) freeing the convicted person from guilt, (c) protecting an offender from arbitrary retaliation.<sup>16</sup>

What has been explained above is more about the Indonesia context. More broadly or globally, the goal of criminal, viewed from a theoretical aspect as discussed by experts, is divided into three main theories: absolute theory, relative theory and combined theory. The absolute theory, which is also called the theory of retaliation (*velgeldings theorien*), states that criminal is imposed solely because someone has committed a crime (*quia peccatum est*) not because of other purposes. Thus, criminal is an absolute consequence that a person must accept as retaliation for a criminal offense he has done.<sup>17</sup> Figures who embrace this theory are Hegel, Immanuel Kant and Johannes Andenaes. For Hegel, crime is a denial of truth, and criminal is a denial of denial.<sup>18</sup> According to Kant, crime is a demand for decency.<sup>19</sup>

<sup>13</sup> Salman Luthan, "Dialektika Hukum Dan Moral Dalam Perspektif Filsafat Hukum," *Jurnal Hukum Ius Quia Iustum* 19, no. 4 (2012): 506-523.

<sup>14</sup> Barda Nawawi Arief, *Reformasi Sistem Peradilan*, p. 33.

<sup>15</sup> *Ibid.*, p. 34.

<sup>16</sup> *Ibid.*, p. 37.

<sup>17</sup> Muladi dan Barda Nawawi Arief, *Teori-Teori dan Kebijakan Pidana*, p. 10.

<sup>18</sup> *Ibid.*, p. 12.

<sup>19</sup> Madiasa Ablisar, "Relevansi Hukuman Cambuk Sebagai Salah Satu Bentuk Pemidanaan Dalam Pembaharuan Hukum

Meanwhile, according to Johannes Andenaes, the primary goal of criminal is to satisfy the claims of justice, if there are other objectives achieved from criminal, they are a secondary purpose.<sup>20</sup>

Next, the relative theory or the goal theory (*doel theorien*) assumes that everything must have usages and benefits, including criminal.<sup>21</sup> Therefore, criminal imposed on a person is not just to retaliate against an act that he has done but to get benefits for himself and others.<sup>22</sup> Therefore, the foundation of criminal according to this theory is in order that people do not do evil things (*ne peccetur*). In short, this theory aims to bring about order and security in society.<sup>23</sup> For this reason, prevention is not necessary through torture, but rather through regulations, so if someone has read the regulations, he will withdraw his evil intentions.<sup>24</sup>

The combined theory (*verenigings theorien*) is a combination of the absolute theory and the relative theory. According to this theory, in addition to re-

taliation against perpetrators of crime, criminal also aims to protect the public so that order can be realized.<sup>25</sup> Thus, the legal foundation for criminal lies in the crime itself, which is retaliation or torture.<sup>26</sup>

## The Integrated Criminal Justice System

There are many definitions regarding the criminal justice system (*SPP*). Among them, according to Remington and Ohlin, is an approach system to the mechanism of criminal justice administration. Hagan defines the criminal justice system as an interconnection between decisions of each agency involved in a criminal justice process.<sup>27</sup> Meanwhile, Mardjono Reksodipoetro argues that the criminal justice system is a crime control system consisting of police institutions, prosecutors, the court and the prison. Of course, in terms of giving limits to the criminal justice system, each expert has his own point of view.

The judicial / law enforcement system is principally a unitary system of substance, structure, and legal cultures. It can be said that an integrated justice

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Pidana," *Jurnal Dinamika Hukum* 14, no. 2 (2014): 278-289.

<sup>20</sup> Muladi dan Barda Nawawi Arief, *Teori-Teori dan Kebijakan Pidana*, p. 11.

<sup>21</sup> Fitri Wahyuni, "Sanksi Pidana Pemerkosaan Terhadap Anak Menurut Hukum Pidana Positif Dan Hukum Pidana Islam," *Media Hukum* 23, no. 1 (2016): 96-109.

<sup>22</sup> Muladi, *Lembaga Pidana Bersyarat* (Bandung: Alumni, 2002), p. 49.

<sup>23</sup> Muladi dan Barda Nawawi Arief, *Teori-Teori dan Kebijakan Pidana*, p. 13.

<sup>24</sup> Djoko Prakoso, *Hukum Penistesier di Indonesia* (Yogyakarta: Liberty, 2010), p. 47.

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<sup>25</sup> Djisman Samosir, *Fungsi Pidana Penjara dalam Sistem Pemidanaan di Indonesia* (Bandung: Bina Cipta, 1992), p. 32.

<sup>26</sup> Satochid Karta Negara, *Hukum Pidana Bagian Satu* (Jakarta: Balai Lektur Mahasiswa, 1998), p. 56.

<sup>27</sup> Warih Anjari, "Penjatuhan Pidana Mati Di Indonesia Dalam Perspektif Hak Asasi Manusia," *Widya Yustisia* 1, no. 2 (2015): 107-115.

system is when these three legal systems are integrated in a unified system.<sup>28</sup> The same conception is also articulated by Muladi that the justice system (criminal) is a judicial network that utilizes criminal law as its primary means, encompassing material criminal law, formal criminal law and criminal implementation law.<sup>29</sup> Synchronization in the criminal justice system must also exist and contain synchronization in substantial, structural and cultural aspects.<sup>30</sup> Hence, the integrated criminal justice system must have some features. First, from the aspect of legal substance, the criminal justice system is an enforcement system of the criminal law substance that includes material criminal law, formal criminal law, and criminal implementation law. These three aspects must be integrated in and synchronized with each other to create the so called an integrated legal substance. Second, from the aspect of legal structure, the criminal justice system is the functioning cause of law enforcement agencies such as the police (investigation), prosecutors (prosecution), courts (adjudication), and the prison (punishment implementation). These four institutions are intertwined in one unified administrative / organizing / functional system of criminal law enforcement. These four institutions are also known as an integrated criminal justice system.

<sup>28</sup> Barda Nawawi Arief, *Reformasi Sistem Peradilan*, p. 5.

<sup>29</sup> Muladi, *Kapita Selekta Sistem Peradilan Pidana* (Semarang: Badan Penerbit Universitas Diponegoro, 1995), p. 5.

<sup>30</sup> *Ibid.*, p. 1.

Third, from the aspect of legal culture, the criminal justice system is in essence a unity of existing legal cultural values and is accepted and followed by the public. Cultural aspects are very abstract which include philosophy, principles, theories, awareness, understanding, goals, and so on by the public regarding laws. It can be argued that in this aspect there needs to be integration in legal cultures in order to create a cool atmosphere in law enforcement which is called the Integrated Legal Culture.<sup>31</sup>

Each system must have an objective as a primary direction to which the system is moving and exists.<sup>32</sup> The same also happens in the criminal justice system. According to Muladi, the main objectives to be achieved from the criminal justice system are three: short-term, medium-term, and long-term goals. The short term goal is the resocialization of a convicted person, the medium term goal is crime prevention, and the long term goal is social welfare.<sup>33</sup>

From the above description, it is understood that in a large criminal justice system structure, the criminal justice system is an integration of substance, structure, and legal culture. The three aspects have their own smaller systems and so on. In each of these smaller sub-

<sup>31</sup> Barda Nawawi Arief, *Reformasi Sistem Peradilan*, pp. 6-8.

<sup>32</sup> Sahuri Lasmadi, "Mediasi Penal Dalam Sistem Peradilan Pidana Indonesia," *Inovatif: Jurnal Ilmu Hukum* 4, no. 5 (2011): 1-10.

<sup>33</sup> Muladi, *Kapita Selekta Sistem Peradilan Pidana*, p. 2.

systems there need to be continuous integration and interface for achieving the objectives of each system.

### **Criminal objectives integrity in the Integrated Criminal Justice System**

All systems in this world come simultaneously between the sub-systems constituting them with various coordination and synchronization that are in harmony and influence one another.<sup>34</sup> Likewise, the integrated criminal justice system must be in harmony and mutually support one another in achieving goals between its components. It is such an expression that is meant by “integrated” in this paper.

In a glimpse, the word “integrated” in the integrated criminal justice system seems confusing because a system that has already had an integrated aspect already encompasses integration in it, and thus the word “integrated” is no longer needed. However, it will be different if the word “integrated” functions to emphasize aspects of integration in the criminal justice system in which the word being an added value because in reality there is often an incomprehensiveness between the criminal justice sub-systems which in turn result in non-optimal outcomes, if not poor.<sup>35</sup> Hence, in the criminal justice system, there are three sub-systems of law that must be harmonious and mu-

tually supportive, namely legal substance, legal structure, and legal culture. Each sub-system has its own components and all the components must also be congenial and supportive to one another, just like a system in general.<sup>36</sup> For example, in the essence of law, there are components of material criminal law, formal criminal law, and criminal implementation law, all of which must be harmonious and mutually supportive. If one of the components is problematic, disharmonious and unsupportive to one another, be it between elements in the legal substance or with other components that are under the legal structure and legal culture, law enforcement will be hindered, or in the worst scenario, it will result in verdicts that do not reflect justice (*unrecht*). The same thing also applies to the components of the legal structure and legal culture, which must be harmonious and mutually supportive to each other, with elements under the same subsystem or with other elements under other subsystems. For example, in the legal structure there are various units of authority and institutions that have their respective roles in the course of a legal process, such as the police, prosecutors, judiciary and the prison. Thus, between the police and prosecutors and so on so forth, or between the police and the components under legal substance and legal culture, must be in harmony with and support one another. It is impossible for the police to punish someone who commits a

<sup>34</sup> Esmi Warassih, *Pranata Hukum*, p. 23.

<sup>35</sup> *Ibid.*, p. 1.

<sup>36</sup> Barda Nawawi Arief, *Reformasi Sistem Peradilan*, p. 6.

crime if there are no rules governing the punishment and the authority of the police. Also, police affairs will be hampered if legal culture does not exist in society. Therefore, a lawful society will ease or reduce police duties. Thus, the integrality in the criminal justice subsystem is indispensable in every aspect of subsystems because it relates to the integration of legal product materials, the authority division of law enforcement, as well as in abstract and philosophical aspects that underlie public legal awareness, such as legal philosophy, legal theory, legal understanding, and public perception about law.<sup>37</sup>

Furthermore, criminal objectives integrality in the integrated criminal justice system cannot be separated from its aims and motives. "Objective" here refers to the purpose of every law enforcement agency establishment according to the law in carrying out criminal objectives. "Motives" refers to reasons of punishment as found in various legal theories about the purpose of criminal objectives.

First, I will discuss the establishment objectives of each law enforcement agency according to the law in carrying out criminal objectives. Referring to the definition of criminal that is proposed by Hoefnagels as a process of a case from beginning to end<sup>38</sup>, which in the Indonesian context can be understood as a process that starts from an investi-

gation by the police, prosecution by prosecutors, verdicts by judges, and imprisonment by prison officials. The existence of these institutions displays respective goals of each agency in carrying out criminal objectives based on the law, even though they might have different purposes, but yet they are headed to the same point, namely the creation of the integrality of national criminal objectives.

For instance, the goal of the police is stated in Law No. 2 of 2002 concerning the Indonesian National Police.<sup>39</sup> The goal of this institution is reflected in the second consideration, which in essence is the maintenance of state security carried out through the maintenance of public order and security, law enforcement, protection, defense, and services of society. The consideration may be understood that the main objective of the police institution is to carry out maintenance of security with various efforts, including maintaining public security and order, law enforcement, protection, defense, and services of society.<sup>40</sup>

Moreover, the objectives of the prosecution agency can be seen in Law No. 16 of 2004 concerning the Public Prosecution Service of the Republic of Indonesia.<sup>41</sup> If it is linked to Law No. 48 of

<sup>37</sup> Ibid., pp. 6-8.

<sup>38</sup> Muladi dan Barda Nawawi Arief, *Teori-Teori dan Kebijakan Pidana*, p. 10.

<sup>39</sup> See: Law No. 2 of 2002.

<sup>40</sup> Chairul Huda, "Kedudukan Subsystem Kepolisian Dalam Sistem Peradilan Pidana," *Ius Quia Iustum Law Journal* 6, no. 12 (1999): 134-144.

<sup>41</sup> The 1945 Constitution of the Republic of Indonesia.

2009 concerning Judicial Power, the aim of the prosecution agency is to carry out judiciary to uphold law and justice.<sup>42</sup> The goal is closely linked to the goal of protecting the whole community. If it is linked to the opening of the 1945 Constitution, all of these are aimed at achieving national goals, namely protecting the entire Indonesian nation (social defense), and to fulfilling public welfare (social welfare).<sup>43</sup>

Finally, the goal desired by the prison as the peak or end point of a criminal journey is that prisoners are mindful of their mistakes, willing to improve themselves, and do not repeat crimes so that they can be re-accepted by society, play an active participation in national development, and can live a better life as a good, responsible citizen. The goal of the prison institution is in accordance with the aspect of protection against the dangerous nature of a criminal. The goal in this case is self-improvement of the perpetrators of crime as aspects linked to community protection (social defense).<sup>44</sup>

Second, reasons for handing out punishment are based on legal theories regarding the purpose of punishment. Theories about the purpose of giving criminal penalties revolve in line with

the development of an era.<sup>45</sup> Initially, there are several classical theories about punishment and criminal penalties in the forms of: absolute theory (retaliation), relative theory (objective theory), and combined theory (between absolute and relative theories). According to Barda, punishment basically aims for social protection (social defense). The purpose of this social protection results from two main objectives, namely social welfare and social protection because according to him social protection includes social welfare. He further argued that social protection also includes four aspects, namely protection against evils, bad people, arbitrary conducts of rulers, and from impaired values. These all lead to two core objectives: protection of society and individuals.<sup>46</sup> Thus, if this core goal is absent, it will result in lacking of value and direction, and at a more concrete level it will cause various anomalies in law enforcement. Indonesians certainly do not forget the Mbok Minah and Basara cases that were sentenced but yet the awareness of justice among the Indonesian community raised through various reactions. Similar cases would not have occurred had criminal objectives been applied in every criminal process. Without such an objective, norms of criminal law will only be like wild animals that attack here and there.

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<sup>42</sup> Law No. 48 of 2009.

<sup>43</sup> Marwan Effendy, *Kejaksaan RI: Posisi Dan Fungsinya Dari Perspektif Hukum* (Jakarta: Gramedia Pustaka Utama, 2005).

<sup>44</sup> Rumadan, "Problem Lembaga Pemasyarakatan Di Indonesia Dan Reorientasi Tujuan Pidanaan."

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<sup>45</sup> Luh Rina Apriani, "Penerapan Filsafat Pidana Dalam Tindak Pidana Korupsi," *Jurnal Yudisial* 3, no. 1 (2010): 1-14.

<sup>46</sup> Barda Nawawi Arief, *Reformasi Sistem Peradilan*, p. 33.

## Conclusion

Criminal objectives integrality can be interpreted as a synchronization and integration of criminal objectives in each segment of the criminal justice system. In the criminal justice system, there are three legal sub-systems which must be in harmony and support each other, namely legal substance, legal structure, and legal culture. Each sub-system has its own components and each of the components must be in harmony and support one another, just like a system in general.

The components of legal substance include legal criminal material, formal criminal law, and criminal implementation law. Meanwhile, the components of legal structure include investigation authority by the police, prosecution by prosecutors, trial or passing a verdict by court institutions, and punishment by prison institutions. The components of legal culture include perceptions, attitudes, views, values, opinions, and so on that live in society and affect the law.

Therefore, in the criminal justice process integrality in the three components above is required so that the criminal justice system is able to produce fair legal decisions that in the end will create harmony in the process of law enforcement. The absence of criminal objectives integrality will badly affect criminal law enforcement. Criminal Law Enforcement will become increasingly wild, victimizing anyone especially those who belong to the lower class

and creating a stigma that “the law is sharp downward and blunt upwards”.

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