Penal Mediation As Representation Of Pancasila Values In Criminal Justice System

Mega Arum Saputri
Master of Notarial Sultan Agung Islamic University
megaarum0810@gmail.com

Abstract

In the context of law enforcement, upholding the law always means that the life activities of all members of the community are carried out in accordance with the rules of behavior that guarantee the realization of a human image as a dignified human being. A human with dignity is a human being, a human being whose human rights are recognized, protected and guaranteed. the embodiment of Pancasila values must be applied fundamentally in the criminal justice system to achieve social justice. The research used is a normative juridical approach, the results obtained are the implementation of penal mediation as the embodiment of Pancasila values has several positive implications. Therefore, it is necessary to have a penal mediation law. In this law, penal mediation should be regulated at the level of investigation, prosecution, court and correctional institutions. The criminal justice system is a network of courts that uses criminal law as its main means, which includes material criminal law, criminal law. formal and criminal law enforcement. There is a model of the criminal justice system which both contain different value systems, each competing with each other to get a priority scale in its operation.

Keywords: Criminal Justice System; Pancasila; Penal Mediation;

1. Introduction

The criminal justice system is a judicial network that uses criminal law as its main means, which includes material criminal law, formal criminal law and criminal law enforcement.[1] The characteristics of the criminal justice system in a country are influenced by rational choices about the flow of criminal law adopted in that country. In this connection, in the realm of criminal law there are three schools, namely the Classical, Modern and Neo-Classical schools.

Classical criminal law is characterized by its adherence to the principle of legal certainty which is supported by the principle of legality, both regarding the juridical definition of a criminal

1. Muladi, *Kapita Selekta Sistem Peradilan Pidana*, Badan Penerbit Universitas Dipo-negoro, Semarang, 1995, page. 4.

act and the certainty of the sentence (definite sentence). This classic school of criminal law has weaknesses that stem from the adoption of "equal justice", in the form of the use of the philosophy of retribution (retribution) on the premise that punishment must match the action (punishment fits the crime), the prohibition of conducting judicial policies as well as the wide range of opportunities for the use of capital punishment without a sound basis. With these characteristics, the classical genre of criminal law is called the criminal law of action *(daad-strafrecht)*.[2]

Modern criminal law is characterized by characteristics, namely the application of the principle of criminal individualization which is based on the criminal law of persons (dader-strafrecht). The empirical policy of criminal justice is encouraged, the crime is oriented towards the maker and not the act. Crime must also be educational, therefore the corrective apparatus is given broad authority to assess the implementation of the crime (indeterminate sentence). However, this modern criminal law has a weakness in the form of the impression of spoiling the perpetrator of a criminal act and not paying attention to the interests of the crime victim.[3]

The criminal justice system model that emphasizes individual sentences or individual treatment models cannot provide justice for all parties involved in criminal cases, especially crime victims, so that such a criminal justice system needs to be reformed, in accordance with the values of Pancasila. .

Viewed from the perspective of judicial practice in Indonesia and legislation products, especially in the realm of criminal law, the values of Pancasila are embodied in the concept of fair and civilized humanity and social justice for all Indonesian people and are correlated with popular principles led by wisdom in deliberation/the representative in fact still has not given a deep embodiment.

Benchmarks for the values of Pancasila in the law enforcement process in Indonesia, both in the legislative stage (making laws and regulations), the implementation stage (law enforcement carried out by law enforcement officials as regulated in the criminal justice system starting from the police agency, the prosecutor's office and court institutions), as well as in the administrative/ criminal implementation stage (carried out by the correctional institution) it has implications in its application.

In the law enforcement process that upholds the rule of law, the values of Pancasila have relatively not been realized so that the logical consequences will be correlated with national development. The ideal concept of a rule of law state is that law must be made commander in the dynamics of state life.[4]

---

2. Muladi, *Hak Asasi Manusia, Politik dan Sistem Peradilan Pidana*, Badan Penerbit Universitas Diponegoro, Semarang, 2002, page. 152.
3. *Ibid.*, page. 153.
4. Jimly Asshidiqie, *Pokok-Pokok Hukum Tata Negara Indonesia Pasca Reformasi*, Bhuana Ilmu Populer, Jakarta, 2007, page. 297.

Basically, law correlates with the legal system and is the main basis for the establishment of a country. Law is the highest source (rule of law) in regulating and determining the mechanism of legal relations between the state and society or between community members with one another.[5]

The context and dimensions above are in line with the provisions of Article 28D paragraph (1) of the Amendment of the 1945 Constitution of the Republic of Indonesia which reads: "Everyone has the right to equal treatment before the law so that economic inability does not prevent a person from obtaining this right". The logical consequence is that constitutionally the Indonesian state guarantees that everyone has the same position before the law (equality before the law). This legal principle is not only the most basic principle of equality of law, but also one of the basic human rights, because these rights are directly related to human dignity. National development policy in casu national law development must have a starting point from the constitution as the supreme law of the land by mobilizing all the potential and capabilities of the owned resources and estimating the conditions that affect it both on a national, regional and global scale as well as orderly steps in each of these endeavors. with the aim of national development. According to Paton, the essence of legal development is legal guidance and legal reform. Law development is the treatment of existing laws, not destroying but allowing them to grow, while legal reform is forming a new legal order.[6]

The application of equality before the law based on Pancasila values in solving criminal cases can be resolved through deliberation or peace mechanisms through the implementation of penal mediation. This aspect exists in society as the application of local wisdom values and in the criminal system towards restorative justice as a process of legal reform in the context of national law development. The consequence of making Pancasila the basis of the nation's philosophy means that in every life of the nation and state, Pancasila must be made as a philosophical foundation that animates every step of development, including development in the field of law.

2. Research Method

The method used is a normative juridical approach. normative juridical approach. Namely, research that explains the provisions in the prevailing laws and regulations, related to the realities in the field, then analyzed by comparing the demands of ideal values that exist in laws and regulations with the reality in the field.[7] This type of research is descriptive analysis, because the researcher desires to describe or explain the subject and object of the study, which then analyzes and finally draws conclusions from the results of the study.[8] It is said to be descriptive because

5. Bagir Manan, *Teori dan Politik Konstitusi*, Departemen Pendidikan Nasional, Jakarta, 2003, page. 238.
6. Sri Endah Wahyuningsih, *Perbandingan Hukum Pidana, Dari Perspektif Religipus Law System*, Cetakan Kedua, Unissula Press, Semarang, 2013, page. 4.
7. Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum dan Jurimetri*, Ghalia Indonesia, Jakarta, 1990, page. 33.
8. Mukti Fajar ND dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif dan Empiris*, Pustaka Pelajar, Yogyakarta, 2010, page. 183

from this research it is expected to obtain a clear, detailed, and systematic picture, while it is said to be analysis because the data obtained from library research and case data will be analyzed to solve problems in accordance with applicable legal provisions.

3. Result and Discussion.

1. Implementation of Penal Mediation as the Embodiment of Pancasila Values in the Criminal Justice System.

The criminal justice system is a system that forms a partnership between various law enforcement agencies, each of which in carrying out its functions is oriented towards the implementation of a common goal as a system, namely the upholding of the law. In the context of law enforcement, upholding the law always means that the life activities of all members of the community are carried out in accordance with the rules of behavior that guarantee the realization of a human image as a dignified human being. A dignified human is a human being, a human being whose human rights are recognized, protected and guaranteed.

Within the scope of an egalitarian rule of law, every human being is recognized, protected and guaranteed his human rights. Starting from equality before law and government, human freedom can only be limited as long as such restriction is necessary in order to ensure that freedom, rights and other human interests are protected. This limitation of freedom within the scope of criminal law is constructed in the form of rules of prohibition and rules of orders or obligations. The rule of prohibition is used to prevent acts that can endanger, cause loss, both material (material) and immaterial (non-material) loss. The rules of command or obligation are used as an effort to ensure that certain actions are carried out properly.

The rules of prohibition and rules of command are rules of criminal law that become the framework or support for certain values that are upheld in life together that are to be realized, preserved or preserved. An editorial formulation that contains rules for prohibiting certain actions, or rules for orders to commit certain acts in the technical sense of criminal law, is called the formulation of offenses or formulation of criminal acts. Legal rules that contain provisions regarding what actions are prohibited and what actions should be or are required to be carried out are material criminal law or substantive criminal law. The existing criminal law, philosophically, prioritizes legal certainty over justice.[9]

Within the scope of the criminal justice system, the supporting institutions consist of the police, prosecutors, courts, prisons and legal aid providers. Each of these institutions has functions, duties, authorities and responsibilities which are regulated under a statutory regulation. Thus, the police institution or institution is regulated in a police law, the prosecutor's office is regulated in a separate law, namely the prosecutor's law, the judiciary is regulated in

9. Sri Endah Wahyuningsih, *Model Pengembangan Asas Hukum Pidana Dalam KUHP Berbasis Nilai-Nilai Ketuhanan Yang Maha Esa*, Fastindo, Semarang, 2018, page. 2.

the law on the principal powers of the judiciary. Furthermore, the prison is regulated in the correctional law. The profession of legal aid provider or legal advisor is regulated in the law of the advocate profession.

Of all the institutions that carry out the law enforcement function, they are bound to work to realize the common goal of carrying out the law enforcement process for the realization of justice, certainty and legal benefits for all legal addresses, including individuals, collectivities or communities, and the state under represented by the government. The rule of law that weaves all institutional functions into one integrated system, namely the criminal justice system, is criminal procedural law or formal criminal law.

Whenever there is an act that is suspected of being a violation of the material criminal law, either because of a report or complaint from the victim, or because of being caught in the act, law enforcement officials in this case the police begin to act accordingly. This is a sign of the beginning of the work of the criminal justice system. When the police can carry out their function of handling cases properly, the case will roll to the prosecutor's office. When the AGO can carry out its role properly which is welcomed by the correct functioning of the judge in examining the case, the final product is a verdict that marks the completion of the case examination. If the verdict of the judge is a conviction, then the vehicle for the execution of the crime is a penitentiary. Regarding how the correctional institution carries out the criminal process, it is regulated in the criminal law enforcement regulations. In the Indonesian criminal justice system, the rule of law for implementing this crime is the correctional law.

The focus of attention of criminal law enforcement functionaries in classical times was prohibited acts (criminal acts). Criminal law that places crime as the focus of attention is known as classic criminal law (crime oriented). This classic model was later replaced by modern schools, which put prohibited acts and the perpetrators of criminal acts into the center of attention (crime and offender oriented). Placing the act and the perpetrator as the center of attention is not sufficient for recognition, protection of the rights and interests of the victim or the victim's family.

In the Criminal Code, the provisions governing the protection of crime victims through compensation for damages can be seen in Article 14c of the Criminal Code which in essence states: "In the event that a judge passes a conditional sentence, the judge can determine the conditions. specifically for the convicted person to compensate for damages either in whole or in part arising as a result of the criminal act committed ".

Material criminal law also regulates efforts to protect crime victims through the provision of material compensation. According to Article 14c of the Criminal Code, a judge can determine special conditions for the convicted person to compensate all or part of the damages arising from the criminal act he has committed. According to Barda Nawawi Arief, in practice this

provision is very difficult to implement due to various obstacles, namely:[10]

1. Determination of compensation cannot be given by a judge as a sanction that stands alone in addition to the basic sentence, so it is only a "special condition" for the implementation or execution of the principal sentence imposed on the convicted person;
2. Determination of special conditions in the form of compensation can only be given if the judge imposes a maximum sentence of one year or imprisonment;
3. Even this specific condition in the form of compensation according to the Criminal Code is only facultative, not imperative.

The Criminal Code provides an unbalanced proportion of protection between the protection of victims and perpetrators of criminal acts. Protection of victims in the Criminal Code is minimal. The Criminal Code as the parent of criminal law should provide a sufficient proportion of legal protection to victims.

In line with the dynamics of the life of the people, nation and state of an independent Indonesia, since the beginning of independence, the need for legal reform was felt, including reform of the criminal justice system. Outside the framework of reforming the criminal justice system in general, efforts to partially reform the criminal justice system in Indonesia have been running since the 1960s. This reform, for example, has been carried out by changing the convict guidance system, from what was originally known as the prison system to the prison system. The change in the prisoner guiding system was based on a change in orientation, from retribution-oriented (retributive) to remedial (resocialization) supported by the philosophy of utilitarianism. This change was also supported by the change in legislation, which originally took the form of the Prison Regulation (Gestichten Reglement Stb. 1917 No. 708) to the Correctional Law, namely Law No. 12 of 1995.[11]

The idea of reform (reform) to the criminal justice system in Indonesia has also been proposed as a recommendation in various dissertations. Barda Nawawi Arief, for example, in his dissertation recommended that in order for the purpose of imprisonment to be realized, it needs to be supported equally by the value system that exists in society and the conditions of social welfare in the Indonesian people. In addition, it also recommended the need for a selective and limitative rational policy in the use of imprisonment, as well as its placement as an integral part of the entire criminal justice system.[12] Rekomendasi Barda Nawawi Arief ini sejalan dengan deklarasi Kongres PBB tentang *Prevention of Crime and the Treatment*

10. Natangsa Surbakti, *Peradilan Restoratif Dalam Bingkai Empiri, Teori dan Kebijakan*, Cetakan Kesatu, Genta Publishing, Yogyakarta, 2015, page. 35.
11. Muladi, *Hak Asasi Manusia, Politik dan Sistem Peradilan Pidana*, Badan Penerbit Universitas Diponegoro, Semarang, 2002, page. 223.
12. Barda Nawawi Arief, *Kebijakan Legislatif Dalam Penanggulangan Kejahatan Dengan Pidana Penjara*, Ananta, Semarang, 1994, page. 231.

of Offenders, yaitu Kongres kelima pada tahun 1975 dan Kongres keenam di Caracas pada tahun 1980. Deklarasi kedua Kongres PBB tersebut merekomendasikan agar program-program pencegahan kejahatan dan perlakuan terhadap narapidana sejauh mungkin dilaksanakan dengan memperhatikan kondisi sosial, budaya, politik dan ekonomi masingmasing negara anggota.[13]

Meanwhile, Muladi recommended that in the framework of overcoming crimes using criminal law, it is necessary to consider the use of conditional criminal institutions as an alternative to the short-term punishment of deprivation of liberty (imprisonment). The use of a conditional criminal institution, according to Muladi, can fulfill the objectives of an integrative punishment, namely as a means of community protection, social solidarity, prevention (general and special) and reward or retaliation. The use of conditional criminal institutions is considered to have the ability to prevent negative effects (stigma) caused by the implementation of crimes in prisons.[14]

Recommendations on the results of studies and academic studies basically have a positive influence on reforming national law. In this regard, positive developments regarding the protection of the rights of witnesses and victims in the criminal justice process are then regulated in Law Number 13 of 2006 concerning Protection of Witnesses and Victims. The General Elucidation of this Law contains a statement that the protection of witnesses and victims in the criminal justice process in Indonesia has not been specifically regulated. Articles 50 to Article 68 of Law Number 8 of 1981 concerning Criminal Procedure Law only regulate the protection of a suspect or defendant to receive protection from various possible human rights violations.

Before the establishment of Law Number 13 of 2006, in 2002 there was Government Regulation Number 2 of 2002 concerning Procedures for Protection of Victims and Witnesses in Serious Human Rights Violations as the implementation of Law Number 26 of 2000 concerning Human Rights Courts. Human. Subsequently, Government Regulation Number 4 of 2006 concerning Implementation and Cooperation for the Recovery of Victims of Domestic Violence was formed, which is a follow-up to Law Number 23 of 2004 concerning the Elimination of Domestic Violence.

The establishment and enactment of various new laws and regulations mentioned above can be seen as a more advanced step compared to the Criminal Procedure Code, although the regulations regarding the protection and enforcement of the rights of victims of crime are also inadequate. Furthermore, although the various laws and regulations have been formed, they do not automatically bring about drastic changes in the mindset of law enforcement

13. Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana*, Citra Aditya Bakti, Bandung, 1996, page. 6.
14. Muladi, *Lembaga Pidana Bersyarat*, Alumni, Bandung, 1992, page.260 and 264.

officers administering the criminal justice system in the field. The mindset that originally gave greater attention to the role of criminal offenders did not automatically shift to a mindset that paid balanced attention to the rights and interests of suspects and victims of crime. The description of this situation can be observed through mass media publications which show how the interests of the suspect have always been the top priority for public attention. Objectively, mass media coverage is always centered on the suspect and his interests. Meanwhile, attention to the rights and interests of the victims does not get a portion of the coverage.

Until now, the criminal justice system in Indonesia has often been biased because it is too much action-oriented and crime and offender oriented. The consequence of this excessive orientation towards the act and the perpetrator of this crime is that the interests of the victims of crime are neglected.

Penal mediation is in line with new developments in law enforcement where not always a perpetrator has to be processed, tried and punished through the concept of restorative justice as a form of settlement of cases outside the court (Alternative Dispute Resolution).

The conception and implementation of penal mediation correlates with the Pancasila principles as set out in the Fourth and Fifth Precepts. This context can be interpreted as a way or steps of the Indonesian nation to realize the achievement of the goal of national and state life, always being a unity with other precepts, and also based on the existence of a philosophy of religious values, family values and harmony values as the First Precepts. , The Second and Third Precepts of Pancasila.

The dimension of penal mediation value is actually rooted in restorative justice from the local wisdom of Indonesian customary law. In the social practice of Indonesian society, penal mediation has long been known and has become a tradition such as in the people of Papua (burning stone culture), Aceh (village court), Bali (traditional institutions in village awig-awig), West Nusa Tenggara (begundem institution), and so forth.[15]

Then in the juridical dimension, the penal mediation is regulated partially, is limited and the level is still under law, such as in the Presidential Instruction (Inpres) and the Regulation of the Chief of Police. In judicial practice it is contained in the jurisprudence of the Supreme Court, District Court Decisions, and then it also occurs in the practice of customary courts and is also regulated in the 2015 Indonesian Criminal Code Bill.

There are many positive implications when implementing penal mediation as the embodiment of Pancasila values, namely :[16]

15. Lilik Mulyadi, *Mediasi Penal Dalam Sistem Peradilan Pidana Indonesia*, Alumni, Bandung, 2015, page. 22-23.
16. Yusriando, *Implementasi Mediasi Penal Sebagai Perwujudan Nilai-Nilai Pancasila Guna Mendukung Supremasi Hukum Dalam Rangka Pembangunan Nasional*, Jurnal Pembaharuan Hukum, Volume II No. 1, Januari - April 2015, page. 28.

1. Accumulation of cases does not occur in court, so that economically, the state's financial and economic expenditure does not occur and reduces the time needed to settle a criminal case. Correlation of this dimension, because the accumulation of cases does not occur, the correctional institution is relatively not overloaded;
2. From the victim's perspective, because it helps reduce the sense of revenge against the perpetrator, then the relationship between individuals is re-established. The perpetrator apologized and the victim has forgiven so as to reduce the guilt of the perpetrator and create an atmosphere of reconciliation which is a reflection of the principle of deliberation to reach consensus, so that the life of the nation and state becomes harmonious, harmonious and balanced. Then also the pressure on the victim becomes relatively reduced compared to going to court, because there is no need to be a witness, bring witnesses, hire a lawyer, and have the opportunity to control the results;
3. From the perspective of non-criminal offenders, they will avoid punishment, stigma or records of crimes that have been committed, fined or court fees as compensation, and so on;
4. It is a media and an opportunity between victims and perpetrators to meet to discuss crimes committed by the perpetrator and have given a negative stigma in the victim's life, then victims can also express their concerns, desires and feelings and ask for restitution;
5. From a normative perspective of penal mediation based on the values of Pancasila and restorative justice, if implemented in legislative policies, the rule of law is relatively acceptable to society because it is taken, appointed, applied and oriented from the content of cultural values that are born, live, grow and develop. in Indonesian society;
6. Conducting penal mediation in case handling is more flexible, the process is faster, simpler and cost-effective compared to the lengthy procedural court in accordance with the current criminal justice system.

The implementation of penal mediation as the embodiment of Pancasila values has several positive implications. Therefore, it is necessary to have a penal mediation law. In this law, penal mediation should be regulated at the level of investigation, prosecution, court and correctional institutions. Apart from that, it also regulates the existence of a new institution, mediator officers, the mediation process and substance of the penal mediation. For example, the penal mediation mechanism at the investigation level, between the perpetrator and the victim, is included in the criminal justice system.

It is necessary to optimize the application of Pancasila values in law because these living values are entirely contained in the principles of Pancasila. The classic adage states that ubi

societas ibi jus, which is where there is a society there is a law. Consequently, law will contain the value of justice if it is applied to society where the law is extracted from the values that live in the community concerned as the soul of the nation (volksgeist / living law). If this is done, the relevant law is relatively acceptable because the community considers that the law reflects the value of justice, legal certainty, order and contains benefits for the community so that it can support the rule of law in the context of national development.

2. Model of the Criminal Justice System in the Legal System

Romli Atmasasmita argues that the criminal justice system is a law enforcement, so it contains a legal aspect that focuses on the operationalization of laws and regulations in an effort to tackle crimes and aims to achieve legal certainty. On the other hand, if the definition of the criminal justice system is seen as part of the implementation of social defense related to the goal of realizing public welfare, then the criminal justice system contains a social aspect that emphasizes utility (expediency). The ultimate goal of the criminal justice system in the long term is to create public welfare which is the goal of social policy in the short term, namely to reduce the occurrence of crime and recidivism if these goals are not achieved, it can be ascertained that the system does not work properly.[17]

According to Herbert L. Packer, as quoted by Nyoman United Putra Jaya, there are two models of the criminal justice system which both contain different value systems, one competing with each other to get a priority scale in its operation.[18]

The first model is the adversary model. This model is adopted in the United States, whether it is a crime control model or a due process model, and is a reflection of the flow of Neoclassical criminal law. Both are oriented towards crime and offenders, and boil down to individual sentences and individual treatment. In this resistance system model, conceptually there is a contest between two opposing parties, namely the defendant and his defense and the state represented by the prosecutor. In this model, the most important things are public order and efficiency. The criminal justice process is seen as a struggle or even a kind of war or battle between two irreconcilable interests, namely the interests of the state and the interests of individuals (the defendant). Because of this characteristic, this model is also often called The Battle Model. The due process model, which is relatively lenient than the crime control model, and begins to prioritize the protection of individual rights in order to control maximum efficiency, essentially remains within the framework of a resistance system based on considerations of interests and the absence of harmony between the state and perpetrator of a criminal act.[19] This model has been accepted in line with the recognition of

17. Ali Zaidan, *Menuju Pembaruan Hukum Pidana*, Sinar Grafika Jakarta 2015, page.116
18. Nyoman Serikat Putra Jaya, *Beberapa Pemikiran Ke Arah Pengembangan Hukum Pidana*, Citra Aditya Bakti, Bandung, 2008, page. 138.
19. Muladi, *Kapita Selekta..., op.cit.*, page. 69.

the due process of law clause in the United States constitution.[20] This model of criminal justice is an arena for law enforcement activities to take place based on the philosophy of retributive justice. Naturally, in this model of the criminal justice system, it is difficult to accept the role of third parties, namely victims of criminal acts in the criminal justice process.

Second, the criminal justice system model based on the inquisitor system. This model is adopted in Continental European countries. The judicial process using this model does not show the nature of a contest between two irreconcilable interests, but rather craves for material truth led by an active judge. In a model like this, it is possible to appear the victim in the judicial process.[21]

Third, the family model. This model was introduced by John Griffith. The birth of this model is a reaction to the adversary model which is considered unfavorable. In this kinship model, the perpetrator of a criminal act is not seen as an enemy of society, but as a family member who must be "scolded" as an effort to raise his ability to control or control himself, but should not be rejected or alienated. Treatment of the perpetrators of such crimes is based on the spirit of love. The criminal justice system with this kinship model will clearly reject the role of the victim in the occurrence of crimes. With the adoption of this kinship model in the Netherlands, it seems as if it is a justification for the neglect of attention to victims there.[22]

In addition to the three models discussed above, Roeslan Saleh in different languages and terms suggests two models in criminal justice, namely: a. Juridical model b. Stuur model According to Roeslan Saleh, if we take the essence of the two models, it can be said as follows: According to the juridical model the pressure is placed on the justice of the law and the judge is the top of the hierarchy of the judiciary, while the judge's decision is a determining factor for law enforcers. It is something that is static normative and at least a closed system in a model style, the emphasis is placed on social utility, social order, and law enforcement as a function of social order whereas among the judiciary bodies there is a principal similarity, it is a dynamic model and open to social realities.[23] It seems that if we examine the previous models, especially CCM and DPM, we will see similarities with the models proposed by Roeslan Saleh above. Apart from the similarities, the most important thing is that all of the above descriptions have shown that there is a model that operates in the judicial process which even describes the value system that underlies the judicial process.

There are several models that have developed in both continental and anglosaxon countries. This model cannot be seen as an absolute or part of the reality of life that must be

20. Romli Atmasasmita, *Sistem Peradilan Pidana Perspektif Eksistensialisme dan Aboli-sionisme*, Binacipta, Bandung, 1996, page. 10.
21. Muladi, *Kapita Selekta..., op.cit.*, page. 70.
22. *Ibid*.
23. Roeslan Saleh, *Hukum Pidana Sebagai Konfrontasi Manusia dan Manusia*, Ghalia, Jakarta, 1983, page. 15

chosen, but must be seen as a differentiated value system that can be alternately selected as a priority in the criminal justice process. The existing laws and regulations, whether contained within or outside the Criminal Procedure Code, can be explained that the criminal justice system in Indonesia has a structural device or subsystem of the police, prosecutors, courts, prisons and advocates or legal advisors as a quasi sub system.[24]

4. Conclusion.

The implementation of penal mediation as the embodiment of Pancasila values has several positive implications. Therefore, it is necessary to have a penal mediation law. In this law, penal mediation should be regulated at the level of investigation, prosecution, court and correctional institutions. The criminal justice system is a network of courts that uses criminal law as its main means, which includes material criminal law, criminal law. formal and criminal law enforcement. There is a model of the criminal justice system which both contain different value systems, each competing with each other to get a priority scale in its operation.

24. Michael Barama, Model Sistem Peradilan Pidana Dalam Perkembangan, *Jurnal Ilmu Hukum*, Vol.III/No.8/ Januari-Juni /2016, page.8-17

BIBLIOGRAPHY

Ali Zaidan, 2015, *Menuju Pembaruan Hukum Pidana*, Sinar Grafika Jakarta;

Bagir Manan, 2003, *Teori dan Politik Konstitusi*, Departemen Pendidikan Nasional, Jakarta;

Barda Nawawi Arief, 1996, *Bunga Rampai Kebijakan Hukum Pidana*, Citra Aditya Bakti, Bandung;

Barda Nawawi Arief, 1994, *Kebijakan Legislatif Dalam Penanggulangan Kejahatan Dengan Pidana Penjara*, Ananta, Semarang;

Jimly Asshidiqie, 2007, *Pokok-Pokok Hukum Tata Negara Indonesia Pasca Reformasi*, Bhuana Ilmu Populer, Jakarta;

Lilik Mulyadi, 2015, *Mediasi Penal Dalam Sistem Peradilan Pidana Indonesia*, Alumni, Bandung;

Michael Barama, Model Sistem Peradilan Pidana Dalam Perkembangan, *Jurnal Ilmu Hukum*, Vol. III/No.8/Januari-Juni /2016;

Mukti Fajar ND dan Yulianto Achmad, 2010, *Dualisme Penelitian Hukum Normatif dan Empiris*, Pustaka Pelajar, Yogyakarta;

Muladi, 2002, *Hak Asasi Manusia, Politik dan Sistem Peradilan Pidana*, Badan Penerbit Universitas Diponegoro, Semarang;

Muladi, 1995, *Kapita Selekta Sistem Peradilan Pidana*, Badan Penerbit Universitas Diponegoro, Semarang;

Muladi, 1992, *Lembaga Pidana Bersyarat*, Alumni, Bandung;

Natangsa Surbakti, 2015, *Peradilan Restoratif Dalam Bingkai Empiri, Teori dan Kebijakan*, Cetakan Kesatu, Genta Publishing, Yogyakarta;

Nyoman Serikat Putra Jaya, 2008, *Beberapa Pemikiran Ke Arah Pengembangan Hukum Pidana*, Citra Aditya Bakti, Bandung;

Roeslan Saleh, 1983, *Hukum Pidana Sebagai Konfrontasi Manusia dan Manusia*, Ghalia, Jakarta;

Romli Atmasasmita, 1996, *Sistem Peradilan Pidana Perspektif Eksistensialisme dan Abolisionisme*, Binacipta, Bandung;

Ronny Hanitijo Soemitro, 1990, *Metodologi Penelitian Hukum dan Jurimetri*, Ghalia Indonesia, Jakarta;

Sri Endah Wahyuningsih, 2018, *Model Pengembangan Asas Hukum Pidana Dalam KUHP*

Berbasis Nilai-Nilai Ketuhanan Yang Maha Esa, Fastindo, Semarang;

Sri Endah Wahyuningsih, 2013, *Perbandingan Hukum Pidana, Dari Perspektif Religius Law System*, Cetakan Kedua, Unissula Press, Semarang;

Sri Endah Wahyuningsih, 2013, *Prinsip-Prinsip Individualisasi Pidana Dalam Hukum Pidana Islam dan Pembaharuan Hukum Pidana Indonesia*, Cetakan Kedua, Badan Penerbit Universitas Diponegoro, Semarang;

Yusriando, *Implementasi Mediasi Penal Sebagai Perwujudan Nilai-Nilai Pancasila Guna Mendukung Supremasi Hukum Dalam Rangka Pembangunan Nasional*, Jurnal Pembaharuan Hukum, Volume II No. 1, Januari - April 2015;