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The Reformulation of Criminal Procedure Law against the Rights of Suspects and Defendants in the Perspective of the Criminal Justice System

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Abstract. *The birth of the Criminal Procedure Code as a Masterpiece of Indonesian criminal procedure law has many limitations and cannot accommodate criminal law issues in society. The content of the KUHAP contains many inconsistencies, both unclear, ambiguous, and void norms. One of the inconsistencies in the formulation of the contents of the Criminal Procedure Code concerns the rights of suspects and defendants. The inconsistency of the contents concerning the rights of suspects and defendants is contrary to the principles of justice, protection of human dignity, order and legal certainty for the sake of the rule of law. The purpose of this study is to analyze, systematize and interpret various legal inconsistencies in the contents of the Criminal Procedure Code regarding the rights of suspects and defendants. This research method uses a normative juridical research method with a statutory and legal system approach. The conclusion of this study is that there is an inconsistency in the formulation of norms in the material contained in the Criminal Procedure Code regarding the rights of suspects and defendants which indicates that the formulators of the Criminal Procedure Code do not understand the conception of rights correctly so that it violates the principles of fair legal certainty and equal treatment before the law.*

Keywords: Criminal; Justice; Reformulation.

1. Introduction

The enactment of Act No. 8 of 1981 concerning the Criminal Procedure Code (hereinafter referred to as the Criminal Procedure Code) is a substitute for the Dutch heritage procedural law contained in the Het Herziene Inlandsch Reglement/HIR (Statsblad of 1941 Number 44) connected with Act No. 1 Emergency of 1951 (State Gazette of 1951 Number 9, Supplement to State Gazette Number 81). At the beginning of the emergence of the Criminal Procedure Code, the Indonesian people were very proud of the creation of the work on the

codification and unification of the national criminal procedural law. After the Criminal Procedure Code was enacted for a period of 40 years, it turns out that its limitations are increasingly showing. The expectations for the Criminal Procedure Code have turned into questions after in fact there are still many legal inconsistencies in the content material, both unclear norms (vagueness of norm) and vacuum of norm. This legal inconsistency allows anyone to interpret as they wish according to their interests so that they are increasingly losing aspects of the value of legal certainty, benefit and legal justice.[1].

One of the problems in the Criminal Procedure Code is related to the rights of suspects and defendants. The rights of suspects and defendants are regulated in the Criminal Procedure Code as many as 18 (eighteen) articles consisting of Articles 51 to Article 68 of the Criminal Procedure Code. The inconsistency of the formulation of norms in the material contained in the Criminal Procedure Code regarding the rights of suspects and defendants is related to the phrase "immediately" which is not clear what the time scale is, whether it is a day, a week or a month. The phrase "immediately" in the Criminal Procedure Code regarding the ambiguity of the rights of suspects and defendants is regulated in Article 50 of the Criminal Code which reads:

(1)The suspect has the right to immediately be examined by investigators and can then be submitted to the public prosecutor.

(2)The suspect has the right to immediately bring his case to court by the public prosecutor.

(3)The accused has the right to be tried immediately by the court.

The lack of clarity regarding the meaning of the phrase "immediately" resulted in interested parties, namely suspects and defendants, experiencing legal losses, both material and immaterial. It is as if the Criminal Procedure Code does not provide the principle of balance and gives broad powers to investigators and public prosecutors which overrides the legal rights of those who are suspected of having committed a crime. This right is contrary to the legal principle of equality before the law and contrary to the precepts of the Criminal Procedure Code which should ensure procedures and procedures for law enforcement in the direction of upholding the law, justice and protection of human dignity, order and legal certainty for the implementation of a legal state in accordance with the Constitution. 1945.

[1]Fitria Anita, Socialization of Criminal Procedure Law Reform Regarding the Multimedia-Based Investigation Process, Journal of Justice Magazine Volume 21 Number 2 (2021), p. 48

According to the Oxford Learner Dictionaries, Reformulation is the act of creating or preparing something again, to formulate (something) again and usually in a different wayl, to change or update (an idea, plan, etc, already formulated). Reformulation means an action to create or prepare again in a different way to change something both in ideas, ideas, techniques and methods. Reformulation can be said as an act of reformatting the existing (or whatever) situation, because it is far from ideal. Efforts are needed to reformulate the Criminal Procedure Code by creating ideas.

Various judicial reviews of the contents of the Criminal Procedure Code at the Constitutional Court for 42 years have not been able to formulate the phrase "immediately" clearly and explicitly. In fact, there is no "good will" from the police, prosecutors and judiciary institutions to formulate regulations and policies to formulate the phrase "immediately". Reflecting on the absence of concrete efforts by lawmakers to reformulate the contents of the Criminal Procedure Code regarding the rights of suspects and defendants, a juridical study is needed from the perspective of the criminal justice system.

As according to Muladi, the criminal justice system contains systemic movement from its supporting sub-systems, namely the Police, Prosecutors' Office, Courts and Correctional Institutions (correctional institutions) which as a whole and constitute one unit (totality) seek to transform inputs into outputs that are becomes the aim of the criminal justice system in the form of resocialization of criminal offenders (short term), crime prevention (medium term) and welfare (long term)[2].

Based on the description above, it encourages the author to make a legal analysis that addresses legal issues and analyzes the legal inconsistencies of the contents of the KUHAP regarding the rights of suspects and defendants and formulates the formulation of the Criminal Procedure Code from the perspective of the criminal justice system so that it is hoped that this research aims to provide useful references for both theoretical and legal development as well as practice, especially regarding criminal procedural law which is a guideline in law enforcement practices for police officers, prosecutors and court institutions

2. Research Methods

This research method uses a normative juridical research method with a statutory and legal system approach. Legal materials are obtained from various primary, secondary and tertiary legal materials. The conclusion of this study is that there is

[2]Muladi. 1995. Capita Selecta Criminal Justice System. Diponegoro University Publishing Agency, Semarang in Sugiharto, R, 2012, Criminal Justice System in Indonesia and Overview of Criminal Justice Systems in Several Countries, Semarang: Unissula Press, p. 20

an inconsistency in the formulation of norms in the material contained in the Criminal Procedure Code regarding the rights of suspects and defendants which indicates that the formulators of the Criminal Procedure Code do not understand the conception of rights correctly so that it violates the principles of fair legal certainty and equal treatment before the law.

3. Results and Discussion

3.1. Inconsistency of Normative Rights of Suspects and Defendants in Act No. 8 of 1981 concerning the Criminal Procedure Code

According to Koch and Rusmann, regulations containing vagueness, inconsistency, ambiguity, and ambiguity) then the meaning becomes unclear[3].

a) Vagueness, Koch and Russmann describe the term vagueness by further developing Heck's core-corona-model into a three-sphere model. According to this model, there are three categories of vagueness :

1) There are individuals to which the concept officially applies (so-called positive candidates)

2) There are individuals to whom the concept does undoubtedly not apply (so called negative candidates)

3) The are individuals as to which it is debatable whether the concept applies or not (so called neutral candidates)

b) Inconsistency, a term is considered to be inconsistent if it is used in the same context by different speakers with different meanings. Within judicial terminology, we speak of inconsistency if the precise meaning of a legal term has not yet been clarified by the supreme court. Their use varies between different courts, or in the case of dissenting votes of individual judges, also within courts.

Inconsistency normativity itself, consists of two words, inconsistencyand normativity. Inconsistency itself, comes from two words, 'in' which means not, and consistent. In logic, something is said to be consistent if it does not contain or lead to contradictions.[4]In other words, something is said to be consistent, if the prepositions are strung together in a harmonious system or logic, and do not conflict with each other, therefore, inconsistency itself can simply be said to be a

[3]Koch and Rusmann, Begrundungslehre Jurustice, p. 191-201
[4]In logic, contradictions arise when there is conflict between one preposition and another. In this regard, Aristotle stated "it is impossible that the same thing can at the same time both belong an not belong to the same object and in the same respect" See, R Horn, Laurence, 2018. Contradiction, The Stanford Encyclopedia of Philosophy , Winter, Stanford

condition in which there is conflict between one preposition and another, so that resulting in disharmony.

In relation to normativity, it can be known by understanding Hans Kelsen's thoughts. Law is a system of norms, a system based on imperatives (what should or das sollen). For Hans Kelsen, norms are products of deliberative human thought. Something becomes a norm if it is desired to become a norm, the determination of which is based on good values. So the considerations that underlie a norm are meta-juridical in nature. Something that is metajuridical in nature is das sollen in nature, and has not yet become an applicable law that binds society. In short for Hans Kelsen, legal norms are always created through the will. These norms will become binding on society if these norms are desired to become law and must be set forth in written form, issued by an authorized institution and contain orders. Thus, the inconsistency of normativityit occurs when a legal formulation does not have a precise definition, or is not formally defined. In the absence of this definition, a law will later become vague or unclear, making it difficult or inapplicable.

Talking about legal relations and rights is like two sides of a coin, although they are different, they cannot be separated. Right is an authority or power granted by law. An interest protected by law. Both private and public. Can be interpreted that the right is something that deserves or deserves to be received. For example, the right to life, the right to have a belief, and others.[5]

Another understanding states that the right is the authority granted by objective law to legal subjects. Another understanding also states that rights are legitimate demands for other people to behave and behave in a certain way. The authority granted by objective law to legal subjects has implications for the legal subject itself so that he can do anything to something that is his right as long as it does not conflict with applicable laws and regulations, public order or decency.[6]

The KUHAP preamble guides that the Republic of Indonesia is a legal state based on Pancasila and the 1945 Constitution which upholds human rights and guarantees that all citizens have the same position before law and government and are obliged to uphold this law and government without exception. The 1945 Constitution guarantees and protects the legal rights of every citizen as formulated in Article 28D paragraph (1) which states that Everyone has the right to recognition, guarantees, protection and fair legal certainty and equal treatment before the law. Thus it is clear that the right to obtain guarantees, protection and

[5]Asikin, Zainal, 2012, Introduction to Law, PT. Raja Grafindo Persada, Cet. 1. Jakarta, p. 115
[6]Angrayni, Lysa, 2014, Diktat Introduction to Law, Suska Press, Riau. p. 31-32

legal certainty for everyone cannot be taken away and cannot be ignored by anyone, including law enforcement officials.

The terminology of suspect and defendant based on the formulation of Article 1 point (14) and (15) of the Criminal Procedure Code stipulates that a suspect is a person who because of his actions or circumstances based on initial evidence should be suspected of being the perpetrator of a crime while the Defendant is a suspect who is being prosecuted, examined and tried in court . Besides that, Article 8 paragraph (1) of Act No. 48 of 2009 concerning Judicial Power stipulates that every person who is suspected, arrested, detained, prosecuted, or presented before a court must be considered innocent before a court decision states his guilt and has obtained permanent legal force. In fact, Article 9 paragraph (1) of the Judicial Power Law provides guarantees and protection that everyone who is arrested, detained, prosecuted, or tried without reason based on law or due to confusion regarding the person or the law applied, has the right to claim compensation and rehabilitation. Thus, one thing that is essential from the formulation of legal terminology, both suspects and defendants, is attached to the principle of presumption of innocence, meaning that the rights of suspects and defendants are attached not to be treated like people who have definitely committed a crime and are proven guilty.

The inconsistency of the formulation of norms in the material contained in the Criminal Procedure Code regarding the rights of suspects and defendants is related to the phrase "immediately" which is not clear what the time scale is, whether it is a day, a week or a month. The phrase "immediately" in the Criminal Procedure Code regarding the ambiguity of the rights of suspects and defendants is regulated in Article 50 of the Criminal Code which reads:

(1)The suspect has the right to immediately be examined by investigators and can then be submitted to the public prosecutor.

(2)The suspect has the right to immediately bring his case to court by the public prosecutor.

(3)The accused has the right to be tried immediately by the court.

The ambiguity regarding the meaning of the phrase "immediately" indicates that the drafters of the Criminal Procedure Code were not careful and understood the concept of rights correctly. Every suspect or defendanthas the right to recognition, guarantees, protection and fair legal certainty and equal treatment before the lawBecauseBoth suspects and defendants adhere to the principle of the presumption of innocence, meaning that the right is attached to suspects and defendants not to be treated as people who have definitely committed a crime

and have been proven guilty. there is a court decision declaring guilt and has obtained permanent legal force.

Content material of Article 50 of the Criminal Procedure Code which regulatesthe rights of suspects and defendants should be rigid and not cause multiple interpretations. The "immediate" context formulated in the Article a quo should be clarified as to when and what the legal consequences will be if the rights of the suspect or the defendant do not comply with the said period. The ambiguity of the formulation of the phrase "immediately" regarding the rights of suspects and defendants resulted in the suspects and defendants experiencing legal losses, both material and immaterial. Constitutional guarantee to every citizen to obtainrecognition, guarantee, protection and fair legal certainty and equal treatment before the law as if nothing had happened anddoes not provide the principle of balance of rights between law enforcers and suspects and defendants. The Criminal Procedure Code gives broad powers to law enforcers by setting aside the legal rights of suspects and defendants as people who are not necessarily legally guilty.

The normative inconsistency of the rights of suspects and defendants is not only the vagueness and ambiguity of the meaning "immediately" in the formulation of the content of Article 50 of the Criminal Procedure Code, but also the legal vacuum (vacuum of norm) regarding the definition and scope of the meaning of the phrase "immediately" The legal vacuum for regulating the meaning of the phrase "immediately" apart from not being regulated in the Criminal Procedure Code and its explanations, is also not regulated in organic regulations derived from the Criminal Procedure Code or internal policy regulations in law enforcement institutions. As a result of not regulating the meaning of the phrase "immediately" in laws and regulations, it cannot be interpreted systematically. Systematic interpretation itself is a way of interpreting that connects one article to another in the same legislation or in other (law) legislation, or seeks meaning through an explanation of the law, with the hope that legislators provide limits or specific explanation of the law.[7].

The inconsistency of the normativity of the rights of suspects and defendants as stated in the formulation of Article 50 a quo is contrary to the principles of forming statutory regulations, as stated in Article 5 of Act No. 12 of 2011 concerning Formation of Legislation. The inconsistency of the formulation of the phrase "immediately" clearly does not meet the principlesamong others:[8]

[7]H. Enju Juanda, Legal Construction and Methods of Legal Interpretation, Galuh Scientific Journal of Institutions (online), Vol.4, No.2, (2016). p.s. 12
[8]Krisnayudha, Backy, 2016. Pancasila and Law: Relations and Transformation of Both in the Indonesian State Administration System, Kencana, Jakarta, p.85-195.

1) The principle can be implemented (het beginsel van uitvoerbaarheid) which means that any formation of laws and regulations must be based on the calculation that the laws and regulations formed can later apply effectively in society because they receive good support philosophically, juridical, as well as sociological since the stage of its preparation. In the context of the rights of suspects and defendants,hence the occurrence of inconsistenciesnormativity has a real impact on the unenforceability of provisions regarding when clearly the provisions of Article 50 a quo can be carried out.

2) Principles of correct terminology and systematics (het beginsel van duidelijke terminologie en duidelijke systematiek). The phrase "immediately" is never explained in the formal regulations. This shows obvious inconsistencynormativity of the rights of suspects and defendants.

3) The principle of clarity of formulation means that each statutory regulation must meet the technical requirements for the preparation of statutory regulations, systematics, choice of words or terms as well as clear and easy-to-understand legal language so as not to give rise to various kinds of interpretation in its implementation. The phrase "immediately" in Article 50 of the Criminal Procedure Code is clearly contrary to the principle of clarity of formulation where the choice of words or terms in the legal language is unclear and not easy to understand.

Inconsistency in the material content of the phrase "immediately" regulated in laws and regulations caused by[9]:

a. Formation is carried out by different institutions and often in different time periods;

b. Officials authorized to form statutory regulations alternate because they are limited by terms of office and transition of duties;

c. The sectoral approach in the formation of laws and regulations is stronger than the systems approach;

d. Weak coordination in the process of forming laws and regulations involving various legal agencies and disciplines;

e. Public access to participate in the process of forming laws and regulations is still limited

[9]Wasis Susetio. Disharmony of Laws and Regulations in the Agrarian Sector. Lex Journal Journal (3)10. (2013), p. 142.

Disharmonization of material containing the phrase "immediately" regarding the rights of suspects and defendants in statutory regulations results in different interpretations in implementation, the emergence of legal uncertainty, statutory regulations are not implemented effectively and efficiently, and legal dysfunction, meaning that the law cannot function provide guidelines for community behavior, social control, and dispute resolution.

It is necessary to pay attention to the factors that lead to legal disharmony so that in the formation of a statutory regulation there are no overlaps. The formation of a new law and regulation needs to pay attention to the existing law, so that the new regulation does not conflict with the existing regulation.

Reformulation of Investigative Authority in the Perspective of the Criminal Justice System

According to the Oxford Learner Dictionaries, Reformulation is the act of creating or preparing something again. to formulate (something) again and usually in a different way. to change or update (an idea, plan, etc, already formulated). Reformulation means an action to create or prepare again in a different way to change something both in ideas, ideas, techniques and methods. Reformulation can be said as an act of reformatting the existing (or whatever) situation, because it is far from ideal. Efforts are needed to reformulate the Criminal Procedure Code by creating systematic ideas, ideas and methods to correct inconsistencies in the content of the Criminal Procedure Code regarding investigations that are unclear in meaning and far from the ideal formulation of criminal procedural law as a basis for carrying out material criminal law.

Black Law Dictionary, Criminal Justice System is defined as ”the network of courts and tribunals which deal with criminal law and it's enforcement”. This definition places more emphasis on an understanding of both the network within the judiciary and the function of the network for enforcing criminal law. The criminal justice system comes from the words, "system" and "criminal justice". The system can be interpreted as a series of elements that are interrelated to achieve certain goals. System contains the meaning of assembled (among) parts or components (subsystems) that are interconnected in an orderly manner and constitute a whole. Meanwhile, criminal justice is a mechanism for examining criminal cases that aims to drop or acquit someone from being charged with committing a crime.

Geoffrey Hazard Jr. also suggested that there are three approaches in the criminal justice system, namely the normative approach, the administrative approach and the social approach.[10]First, the normative approach views the four law

[10]Atmasasmita, Romli. 1996, Criminal justice system from the perspective of existentialism and abolitionism, Cet.II, Bina Cipta, Bandung. p.s. 17-18

enforcement apparatus (police, prosecutors, courts and correctional institutions) as implementing institutions of applicable laws and regulations so that the four apparatus are an inseparable part of the law enforcement system alone. Second, the administrative approach views law enforcement officials as a management organization that has working mechanisms, both horizontal and vertical in nature, in accordance with the organizational structure prevailing in the organization. The system used is an administrative system. Third, the social approach views the four law enforcement officials as an integral part of a social system so that society as a whole is partly responsible for the success or failure of the four law enforcement officials in carrying out their duties. The system used is a social system

The Criminal Justice System or the Criminal Justice System is a form that is unique and different from other social systems. The difference can be seen from its existence to produce things that are unwelfare (in the form of deprivation of liberty, stigmatization, confiscation of property or even the loss of human life) on a large scale in order to achieve welfare goals (rehabilitation of perpetrators, control and suppression of criminal acts).[11]

The criminal justice system is essentially a process of enforcing criminal law. Therefore it is very closely related to the criminal legislation itself, both substantive law and criminal procedural law, because the criminal legislation is basically an enforcement of criminal law "in abstracto" which will be realized in law enforcement "in concreto". The importance of the role of criminal legislation in the criminal justice system, because these laws give power to policy making and provide a legal basis for the policies implemented. So in essence the formation of the criminal justice system has two objectives, namely internal system goals and external goals. The internal goal is to create integration or synchronization between subsystems in the task of enforcing the law.

The implementation of criminal justice in the United States is known for two models in the process of examining criminal cases (two models of the criminal process), namely the Crime Control Model and the Due Process Model. The Crime Control Model (CCM) pays more attention to the need to resolve cases or pay attention to the need to resolve cases or ensure whether there is a crime and control crime. The Crime Control Model is based on the assumption that the administration of criminal justice is solely to repress criminal conduct, and this is the main objective of the judicial process, because what is prioritized is public order and efficiency.[12]The criminal process is basically a struggle or even a kind of war between two interests that cannot be reunited, namely the interests of the state and the interests of the individual (the accused). Here apply what is known

[11]Muladi. 1995. Capita Selecta Criminal Justice System. Diponegoro University Publishing Agency, Semarang. p.s. 21
[12]Sabuan, Ansorie. 1990, Criminal Procedure Law. Angkasa, Bandung, p. 6

as the "presumption of guilt" (presumption of guilt) and "quick means" in eradicating crime for the sake of efficiency. In practice, this model has a weakness, namely frequent violations of human rights for the sake of efficiency.

The ambiguity of the formulation of the phrase "immediately" in determining the period of time for the rights of suspects and defendants to be immediately processed by law indicates the strength of the criminal justice system in Indonesia which is based on Crime Control Mode in the law enforcement process. The process of law enforcement prioritizes the interests of the state above the interests of individuals (suspects and defendants), suspects should be treated by people who are guilty and ignorant of the principle of presumption of innocent as a pillar of the rule of law. Law is used as a repressive tool against any criminal action that tends to violate human rights.

The character of the crime control mode system in the criminal justice system in Indonesia which tends to ignore individual interests (suspects and defendants) and violates human rights is also reflected in the provisions of Article 4 paragraph (2) of the Judicial Power Law which stipulates that "The court assists justice seekers and seeks to overcome all obstacles and obstacles in order to achieve a simple, fast and low-cost trial". The law enforcement process is aimed primarily at efficiency in resolving cases and seems to only resemble a managerial model. What a productive contract with the fundamental principles of the Indonesian nation which has the spirit of Pancasila.

Based on the Pancasila principle as the character of the soul of the Indonesian nation which is different from other countries, which is characterized by a religious nation state. The Indonesian state, which adheres to the philosophy of Pancasila, protects religion, adherents of religions, and even tries to incorporate Islamic religious teachings and laws into the life of the nation and state. Mohammad Hatta (Vice President of the Republic of Indonesia I) stated that in the regulation of the legal state of the Republic of Indonesia, Islamic sharia based on the Qur'an and Hadith can be made into Indonesian laws and regulations so that Muslims have a sharia system that is in accordance with Indonesian conditions.[13].Pancasila is a legal ideal, so the values contained in Pancasila have a constitutive function that determines whether the Indonesian legal system is the correct legal system, and besides that it has a regulative function that determines whether the positive law that applies in Indonesia is a just law or not. .[14]

[13]Ichtijanto SA, "Prospects for the Religious Courts as State Courts in the Legal Political System in Indonesia," in Ahmad, Amrullah, 2016. Dimensions of Islamic Law in the National Legal System, Gema Insani Press, Jakarta, p. 178
[14]Halim, Hamza and Kemal Redindo Syahrul Putera. 2009. Practical Ways to Compile & Design Regional Regulations, Kencana Publisher, Jakarta, p. 55

The effort to reformulate the Criminal Procedure Code regarding the rights of suspects and defendants within the framework of the criminal justice system is to rearrange the criminal justice system based on the crime mode into a due process model. The philosophy of Pancasila as the nation's character and the source of all sources of law which is characterized by the spirit of religious justice is in stark contrast to the criminal justice system which seems to be the fundamental framework of the Indonesian criminal justice system.

Various portraits of violations of the law enforcement process against the rights of suspects and defendants where often law enforcement officials, especially the police and prosecutors are reported to internal and external supervisors. Not a few police investigators are reported to internal supervisors, both Propam and Wasidik or even Kompolnas, while prosecutor investigators are also often reported to Jamwas and the Prosecutor's Commission. The portrait of the violation indicates that there are frequent violations of legal rights and human rights in the process of law enforcement in Indonesia.

In the Due Process Model, values emerged that were previously neglected, namely the concept of protecting individual rights and limiting power in the administration of criminal justice. And the values that underlie the Due Process Model are[15]:

1) This model emphasizes preventive measures and eliminates court administration as far as possible.

2) This model assumes that the court process is seen as coercive, restricting and demeaning to human dignity.

3) This model starts from values that are anti-power.

4) There is the idea of equality before the law.

5) This model prioritizes decency and the use of criminal sanctions.

Relying on the framework of the system due process model, the reformulation of the rights of suspects and defendants must be constructed using a three-approach method, namely:

1) The normative approach views the four law enforcement apparatus (police, prosecutors, courts and correctional institutions) as implementing institutions of

[15]Sunaryo, Sidik. 2004. Capita Selecta Criminal Justice System, Malang Muhammadiyah University, Malang, p. 269-270

applicable laws and regulations so that these four apparatus are an inseparable part of the law enforcement system alone. Revision of Act No. 8 of 1981 concerning the Criminal Procedure Code which rearranges the phrase "immediately" so that unclear interpretations do not occur again and provides limits and clarity for how long the law requires. The revision of the Criminal Procedure Code regarding the rights of suspects and defendants must also be aligned and harmonized with the authorities of each law enforcement apparatus so that there is also no overlapping of powers and disharmony of authority between law enforcement institutions.

2) The administrative approach views law enforcement officials as a management organization that has a work mechanism, both horizontal and vertical in nature, in accordance with the organizational structure prevailing in the organization. The system used is an administrative system. There is a need for a regulation of technical guidelines and internal implementation instructions for each law enforcement agency so that there is no longer a legal vacuum and clear instructions for investigators from both the National Police and the Attorney General's Office in protecting and guaranteeing the rights of suspects and defendants.

3) The social approach views the four law enforcement officials as an integral part of a social system so that society as a whole is partly responsible for the success or failure of the four law enforcement officials in carrying out their duties. The system used is a social system. Through this social approach, the position between law enforcers and suspects and defendants should not be something that is mutually contradictory, both law enforcers and suspects should be an integral part of a social system of society that have mutual rights and obligations that must be mutually fulfilled and protected. Thus there will be no more legal conflicts regarding the rights of suspects which are often not fulfilled and protected in the process of law enforcement in Indonesia

4. Conclusion

The inconsistency of the formulation of norms in the material contained in the KUHAP concerning the rights of suspects and defendants indicates that the formulation of the Criminal Procedure Code was not careful and understood the concept of rights correctly so that it violated recognition, guarantee, protection, and fair legal certainty and equal treatment before the law. The reformulation of the rights of suspects and defendants must be constructed within the framework of the criminal justice system through a three-approach method, namely the normative approach with the revision of Act No. 8 of 1981 concerning the Criminal Procedure Code which rearranges the phrase "immediately" so that unclear interpretations do not occur again and provides limits and clarity for how long the law requires.

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