

The Implementation of Assistance for Victims of Crimes of Beatings

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Abstract. *The aim of this research is to determine and analyze the implementation of assistance for victims of criminal acts of beatings. To know and analyze obstacles and solutions in assistance to victims of criminal acts of beatings. This research is normative legal research approach method or also known as doctrinal research. The nature of the research used is prescriptive legal research. Research sources include primary legal materials and secondary legal materials. Primary legal materials consist of statutory regulations, authoritative official records and secondary legal materials are books written by legal experts, legal journals, articles and materials from internet media. Then analyzed using descriptive analysis methods. Based on the results of the research, the implementation of assistance for victims of criminal acts of beatings is still not consistent with applicable regulations. The assistance to victims provided by legal officials still favors people who can afford the services of a legal advisor. We can examine this from the principle of equality before the law in relation to the victims' rights to be accompanied by a legal advisor and their treatment. The same for the victim before the court. The obstacle is a dilemmatic situation, especially in terms of exercising the right to raise objections/exceptions. If this right is used, the consequence is that the trial of the case will take longer because there will be at least several postponements of the trial for the exception process. Efforts to overcome the obstacle is make a letter of application to the court to obtain the defendant's case files. Participate in eradicating legal mafia practices at the court examination level. The Legal Advisor made an exception because of the discrepancies that existed from the investigation or investigation level, the prosecution level, to the court level.*

Keywords: Assistance; Beatings; Crime; Implementation.

1. Introduction

Comparing the presidential system of government in Indonesia in a civil law legal system with the presidential system of the United States (US) in a common law legal system, one can understand the development of the characteristics of each country's constitutional system. Following the development of the founding fathers' thoughts regarding the foundations of the state, they stated that the formation of the Republic of Indonesia was based on the lifestyle of the Indonesian people, namely the family system and would use a government system that suited the style of its society. However, with the reform in 1998, the confirmation of the presidential system of government was agreed to on the agenda of the MPR session which discussed changes to the 1945 Constitution. In the implementation of the presidential system in Indonesia, which grew within the civil law system, there was also the influence of common law. Proven by the adoption of parliamentary principles. There have been efforts to purify the presidential system, but there is a need for improvements, especially in the political infrastructure and the structuring of several laws (UU) in the political field. Meanwhile, the United States' presidential system of government is integrated in its constitutional practices, because the United States is the birthplace of the presidential system and is an ideal example because it fulfills almost all the criteria that exist in a presidential system of government. There are several advantages and disadvantages in each presidential government system between Indonesia and the United States. This is due to several influences that support the effective implementation of the system, including the underlying legal system, party system.¹

Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (hereinafter abbreviated to the 1945 Constitution of the Republic of Indonesia) confirms that the Republic of Indonesia is a state based on law (*rechtstaat*).² In Indonesia, in order to uphold the rule of law as envisioned, efforts need to be made so that the public is familiar with the ins and outs of the applicable laws. Indeed, nowadays, in an effort to ensure the maintenance of stable national stability in order to support the implementation of development, the government has made various efforts, but in reality there are still actions by

¹ Dwi Istinah, Siti Rodhiyah, 2015, Comparison of Government Systems in the Common Law System with the Civil Law System (Study of the Indonesian Presidential Government System with the United States Presidential Government System), Vol 31, No 1, Unissula Law Journal

²Bambang Waluyo, 2004, Crime and Punishment, Sinar Graphics, Jakarta, p. 33.

members of society that disrupt security and public order, both directly and indirectly, which will affect the pattern of Their life.

In efforts to realize the principles of the rule of law in social and state life, the role and function of legal advisors as a free, independent and responsible profession is important, alongside judicial institutions and law enforcement agencies such as the Police and Prosecutor's Office. Through the legal services provided, Legal Advisors carry out their professional duties to uphold justice based on the law for the benefit of the justice-seeking community, including efforts to empower the community to realize their fundamental rights before the law. Legal Counsel as a law enforcement element in criminal justice is one of the pillars in upholding the supremacy of law and human rights.

Law in Indonesia has recently received sharp attention from all levels of society. This happens because the law which is expected to be an instrument of order, a tool to maintain the balance between public interests and individual interests, as a catalyst to drive the process of change that can protect society, is still far from these expectations.³

The level of criminality in society is in line with the development of society itself, meaning that crime in society usually appears when the country is developing very rapidly, but this does not mean that development is the cause of increasing crime because development itself is one form of reducing criminal tendencies. In society, that through development the level of social welfare will improve.

An event cannot be prohibited if it causes a non-person, and a person cannot be criminally punished if it is not caused by an event caused by him. In fact, to express this close relationship, the word action is used, namely an abstract meaning that refers to two concrete situations: first, the existence of a certain incident and second, the existence of a person who took action which caused the incident. On the basis of the description of the object of the crime above, the author agrees with The formulations in the Criminal Code state that the object of the crime is a person or individual. Many phenomena occur, natural events that cause injury or death to people.

The aim of the research is to determine and analyze the implementation of assistance for victims of criminal acts of beatings. To know and analyze obstacles and solutions in assistance to victims of criminal acts of beatings.

³Erdiansyah, 2010, "Violence in Investigations from a Legal and Justice Perspective", Journal of Legal Sciences, Faculty of Law, University of Riau, Edition No.1, p.91

2. Research Methods

The author uses a normative legal research approach or also known as doctrinal research. The nature of the research used is prescriptive legal research. Research sources include primary legal materials and secondary legal materials. Primary legal materials consist of statutory regulations, authoritative official records and secondary legal materials are books written by legal experts, legal journals, articles and materials from internet media. Then analyzed using descriptive analysis methods.⁴

3. Result and Discussion

3.1. Implementation of Assistance for Victims of Crimes of Beatings

Social life has many dynamics that occur between victims and crime. The dynamics that occur can be caused by several things, such as economic, political and psychological incentives.⁵ As time progresses, the causes of the dynamics between victims and crime can also become more varied, so that there are often additional victims as a result of crime. The increase in victims must be balanced with the fulfillment of victims' rights which are well realized. One of the rights that victims have is the right to receive assistance.

The lack of legal awareness in society today causes distrust between members of society themselves as well as distrust of law enforcement officials and the government. Moreover, with the current difficult economic conditions in our country, this has resulted in the emergence of crime in society because the living needs of every member of society are increasing.⁶

Crime is a complex phenomenon that can be understood from various different angles, which is why in everyday life we can perceive various comments about a crime incident that are different from each other. A civilized society certainly assesses whether an action can be said to be a crime or not a crime, of course in terms of the law and the sense of justice that exists in society. In further developments, in an effort to find out the factors that cause a crime to occur, the science of law is always accompanied by the science of criminology.⁷

⁴Winarno Surakhmad, 1998, Paper, Thesis, Thesis, Desertation, Taristo, Bandung, p. 16.

⁵Bambang Waluyo, 2011, Victimology of Victim and Witness Protection, Sinar Graphics, Yogyakarta, p 23

⁶Haris Wahyu Sunarno and Akhmad Khisni, 2020, Analysis of Criminal Liability as Doer of Criminal Precautions (Case Study in the Blora State Court) Journal of Daulat Hukum Volume 3 Issue 1, Unissula, p. 223, <http://jurnal.unissula.ac.id/index.php/RH/article/view/8779/4074>

⁷Putu Budhi Yasa, 2015, "Criminological Review of Fights and Beatings at Single Organ Entertainment Events (Study in Bandar Lampung)". in the journal Peonale Vol. 3 No. 3

In Indonesia, law is seen as the commander of the law against perpetrators of criminal acts. One of the crimes is beating. Recently, many criminal acts of beatings have occurred due to actions taken by someone towards another person that are beyond reasonable limits. The crime that often occurs is beatings which are regulated in the criminal code, namely article 170 of the Criminal Code. Usually the crime of beatings is carried out by more than one perpetrator and is planned using tools such as blocks, wood or other sharp weapons.⁸

Law also functions to achieve order between human relations in social life. The law safeguards the necessities of life in order to create a psychological and physical balance in life, especially in the life of social groups that feel pressure or inappropriate social ties. This means that the law also ensures that justice is always realized in social life (society). So, legal norms are something that relates to human life in certain social groups, both in social situations. This is to achieve order for justice. Law as a norm has specific characteristics, namely that it wants to protect, regulate and provide balance in maintaining public interests.⁹As for the elements of the law itself, namely that the law contains regulations in social life, the law is implemented by the authorized body, namely the legislative body with the approval of the executive body and vice versa, in general the law is coercive, that is, the law is firm, if it is violated, it can be punished sanctions or laws in accordance with applicable regulations.¹⁰

The problem regarding crime victims in criminal law (material and formal) is why crime victims who are harmed and suffer as a result of crimes/violations of criminal law, both material and immaterial, are not paid attention to by the criminal justice system, while justice in the judicial and sentencing process is actually aimed at to criminal law violators? Even violations of criminal law that are brought to court are considered 'seeking justice' in criminal law. Police and prosecutors who process criminal cases do so not on behalf of and to defend the interests of crime victims. The relationship between the two (police and victims) is not strictly regulated by legal regulations.

When a criminal act occurs, the party who directly experiences suffering and loss is the victim. Criminal acts that occur in people's lives clearly have a negative impact, they can create situations and conditions that make it difficult for victims to live in society. The negative impacts that arise do not necessarily disappear even if the perpetrator of the crime has been arrested and processed by law enforcement officials. Even when the judicial process is carried out to hold the perpetrator accountable, victims who are presented as witnesses are often still

⁸Leden Marpaung. 1992. Criminal Case Handling Process. Sinar Graphics, Jakarta

⁹Muhammad Sadi Is, 2015, Introduction to Legal Studies: Prenadamedia Group, Jakarta, p. 4

¹⁰Zainal Asikin, 2015. Introduction to Legal Science. Rajagrafindo Persada, Jakarta, p. 23

faced with other difficulties in preparing mentally, physically, time and financially to come to court.

Legal services are provided to the community by law enforcement officers with the aim of respecting and providing humane legal protection regarding the rights justified by law for all Indonesian people without distinguishing between rich or poor. This shows that in reality not all people who have problems with the law understand the law, but are considered to understand and know the law. Therefore, legal assistance is needed from legal advisors to provide services in the form of consultation and legal assistance.¹¹

The Prosecutor's Office of the Republic of Indonesia is a state institution that exercises state power, especially in the field of prosecution. As the body with authority to enforce law and justice, the Prosecutor's Office is led by the Attorney General who is appointed by and responsible to the President. The Attorney General's Office, High Prosecutor's Office and District Prosecutor's Office are state powers, especially in the field of prosecution, all of which are a unified whole that cannot be separated.¹²

Implementation of Assistance for Victims of Crimes of Beatings is still not consistent with applicable regulations. The assistance to victims provided by legal officials still favors people who can afford the services of a legal advisor. We can examine this from the principle of equality before the law in relation to the victims' rights to be accompanied by a legal advisor and their treatment the same for the victim before the court. The role of a companion for victims of criminal acts of beatings is to accompany the client, interrupt the trial, make exceptions for what is alleged, present witnesses to relieve.

3.2. Obstacles in Assistance to Victims of Crimes of Attacks and their solutions

A new state of law (*rechtstaat*) is created if there is recognition of democracy and human rights. In a legal state, the state and individuals are on an equal footing. State power is limited by human rights so as not to violate individual rights. Guarantees for the implementation of human rights are needed in order to protect and prevent abuse of authority and power held by the state towards its citizens. Equality before the law and the right to be defended by legal counsel are human rights that need to be guaranteed in order to achieve social justice, as one way of alleviating society from poverty, especially in the legal field.

¹¹Bambang Sunoto, Jawade Hafidz, 2018, Assistance of Legal Counsel for Suspects and Defendants in Corruption Cases (Case Study of the Legal Area of the Semarang Corruption Crime Court), *Khaira Ummah Law Journal*, Vol. 13.No. 1, Unissula, p. 298

¹²Agung Nugroho Santoso and Sri Kusriyah, 2021, Role Of Public Prosecutors In Corruption Crime Prosecution, *Law Development Journal*, Volume 3 Issue 2, <http://jurnal.unissula.ac.id/index.php/ldj/article/view/15975/5714> pp. 199

Law is a means of regulating and protecting the interests of society. Every member of society must carry out their obligations and obtain their own rights so that no one wants to be harmed.¹³

In line with this, efforts to create and build peace and tranquility must be carried out with a joint commitment to make changes starting from oneself and society in carrying out this control device. Crime will continue to proliferate in society if this is only allowed without paying attention to the enforcement of applicable laws. The community's commitment or social contract is then confirmed in the form of legal certainty.¹⁴

Beatings are acts carried out by many people consisting of two or more people without any limit on the size of the crowd. The explanation regarding the beating itself is not explained in the Criminal Code. Beatings are also known as joint abuse or carrying out acts of violence together against another person which results in the other person suffering minor or serious injuries. In general, criminal acts against the body in the Criminal Code are called "torture".

Indonesian society lives under the auspices of positive law, although in certain areas the existence of traditional institutions can still be found. Individuals as part of society always want to live side by side with other members of society. This natural characteristic causes humans to interact with each other. Human interactions can be mutually beneficial or detrimental. Law is present in society as a counterweight to various interaction patterns of individuals living as a society, because law contains norms about what kind of interactions are considered detrimental to the rights and sense of justice of other individuals or society as a community that is considered to feel the impact.

The implementation of assistance is very necessary to guarantee and realize equality before the law for everyone, especially the poor. This is also intended to create the principle of a fair trial where legal assistance provided by a Legal Advisor in the context of the process of resolving a case, both from the investigation stage and during the trial process, is very important to ensure the implementation of the legal process in accordance with existing regulations, moreover when he represents his client in court to provide legal arguments to defend his client.

¹³Rizky Adiyanzah Wicaksono and Sri Kusriyah, 2018, Implementation Of Restorative Justice Approach In Legal Protection Against Lightweight Crime By The Children, Journal of Sovereign Law Volume 1 Issue 4, Unissula, p. 945, <http://jurnal.unissula.ac.id/index.php/RH/article/view/5424/3345>

¹⁴Johan Benbella Putra and Umar Ma'ruf, 2020, Law Enforcement against Criminal Acts of Motorcycle Gangs Criminal of Rumbing & Sharp Weapons Law Development Journal, Volume 2 Issue 4, Unissula, p. 538, <http://lppm-unissula.com/jurnal.unissula.ac.id/index.php/ldj/article/view/13641/5186>

Obstacles in Assisting Victims of Criminal Acts of Attacking: There is a dilemmatic situation, especially in terms of exercising the right to raise objections/exceptions. If this right is used, the consequence is that the trial of the case will take longer because there will be at least several postponements of the trial for the exception process. If an exception is submitted, it will be responded to by the Public Prosecutor and after that there will be another response and so on. This process took time and the trial which should have been carried out on a simple and fast basis was not achieved.

Efforts to overcomeThe obstacles in assisting victims of criminal acts of beatings are: make a letter of application to the court to obtain the defendant's case files. Participate in eradicating legal mafia practices at the court examination level. The Legal Advisor made an exception because of the discrepancies that existed from the investigation or investigation level, the prosecution level, to the court level.

4. Conclusion

Based on the research results that have been described, conclusions are drawn from: Implementation of Assistance for Victims of Crimes of Beatings is still not consistent with applicable regulations. The assistance to victims provided by legal officials still favors people who can afford the services of a legal advisor. We can examine this from the principle of equality before the law in relation to the victims' rights to be accompanied by a legal advisor and their treatment. The same for the victim before the court.Obstacles in Assisting Victims of Criminal Acts of Attacking: There is a dilemmatic situation, especially in terms of exercising the right to raise objections/exceptions. If this right is used, the consequence is that the trial of the case will take longer because there will be at least several postponements of the trial for the exception process. If an exception is submitted, it will be responded to by the Public Prosecutor and after that there will be another response and so on. This process took time and the trial which should have been carried out on a simple and fast basis was not achieved.Efforts to overcomeThe obstacles in assisting victims of criminal acts of beatings are: make a letter of application to the court to obtain the defendant's case files. Participate in eradicating legal mafia practices at the court examination level. The Legal Advisor made an exception because of the discrepancies that existed from the investigation or investigation level, the prosecution level, to the court level.

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