

Reformulation of Regulations on the Termination of Criminal Acts Against Mentally Ill Offenders Based on Substantive Justice Values

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ABSTRACT

This research is motivated by the legal uncertainty and injustice in regulating the termination of criminal acts on the grounds of mental illness in the Indonesian criminal justice system. Current regulations, both in the Criminal Code (KUHP) and the Criminal Procedure Code (KUHP), do not provide clear definitions, objective assessment standards, or adequate oversight mechanisms, resulting in differing interpretations and potentially harming victims and the community. Furthermore, the approach used tends to be perpetrator-oriented and does not fully reflect the values of substantive and restorative justice. The purpose of this study is to analyze the reasons why the regulation on the termination of criminal acts on grounds of mental illness is not based on values of justice, to identify the weaknesses of the current regulation, and to formulate a reconstruction of the regulation that is fairer and more comprehensive. This study uses a sociological juridical method with a normative and empirical approach, supported by the Pancasila theory of justice, legal system theory, and progressive legal theory. The results indicate that the main weaknesses lie in the absence of standard standards for assessing mental illness, a lack of coordination between institutions, and the absence of a post-discontinuation monitoring mechanism. Therefore, regulatory reconstruction is needed, including a clearer definition of mental disorders, standardization of assessment procedures, the establishment of an independent oversight body, and the strengthening of a restorative justice approach through the rehabilitation and social reintegration of offenders. This reconstruction is expected to create a balance between protecting the rights of offenders, justice for victims, and the interests of society, resulting in a more just, humane, and substantive criminal justice system.

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Introduction

Indonesia, as a nation governed by the rule of law, places law as the primary instrument for regulating social, national, and state life. Law serves to create order, justice, and certainty, including in the handling of crimes through the criminal justice system. In this context, criminal law serves as a means to prosecute violations of norms through mechanisms stipulated in the Criminal Code (KUHP) and the Criminal Procedure Code (KUHAP). It also guarantees the protection of human rights for all parties, including perpetrators, victims, and the community. (Alwi, 2004)

In criminal law, there are grounds for expungement of criminal penalties, one of which is the excuse of forgiveness, as stipulated in Article 44 of the Criminal Code, when the perpetrator cannot be held responsible for their actions due to mental illness. Normatively, this condition allows the perpetrator to be freed from criminal charges. However, in practice, the regulation of the termination of criminal acts on grounds of mental illness still raises various issues, particularly related to the objectivity of assessing the perpetrator's mental condition, legal certainty, and justice for the victim. (Arif, 2001)

The main problem lies in the lack of clear and uniform standards for determining mental illness as a basis for dismissal. Assessments of mental health are heavily dependent on expert interpretations, which often differ, leading to legal uncertainty and disparity in decisions. This situation has the potential to lead to injustice, both for victims who feel their rights have been neglected and for the public who question the consistency of law enforcement. There is even the potential for abuse, with cases of feigning mental illness being used to avoid criminal liability. (Moeljatno, 2009)

On the other hand, the law must also consider the principle of humanity, stating that someone who truly lacks the capacity to take responsibility should not be punished. This demonstrates the dilemma between protecting perpetrators with mental disorders and the need to ensure justice for victims and public safety. Therefore, a balance between individual protection and the public interest is necessary in the criminal justice system.

The restorative justice approach is a relevant alternative to address these issues. This approach emphasizes restoring relationships between the perpetrator, victim, and community, rather than solely on punishment. In the context of perpetrators with mental disorders, restorative justice can be implemented through rehabilitation mechanisms, mediation (with consideration for the victim's safety), and social reintegration. This approach is considered more humane and responsive to the needs of all parties. (Qardhawi, 2014)

However, the implementation of restorative justice also faces challenges, such as protecting victims from the risk of re-victimization, the need for perpetrator supervision, and the social stigma surrounding people with mental disorders. Furthermore, the current legal system does not fully accommodate integrated mechanisms between criminal law and mental health.

This situation demonstrates the urgent need to reformulate the legal regulations regarding the termination of criminal acts on grounds of mental illness. This reconstruction includes clarifying the operational definition of mental illness, standardizing psychiatric assessment procedures, establishing an independent oversight body, and developing a

comprehensive rehabilitation and social reintegration program. Furthermore, increased public education is needed to reduce the stigma against individuals with mental illness and strengthen coordination between law enforcement agencies and mental health professionals. (Soetomo, 2008)

Empirical cases demonstrate that the weaknesses of this regulation can have serious consequences. In some cases, perpetrators previously declared ineligible for prosecution due to mental illness have re-offended. This demonstrates that dismissing cases without adequate oversight and rehabilitation mechanisms can endanger society and fail to reflect substantive justice.

Previous research has tended to focus on the criminal responsibility of the perpetrator, without adequately considering the interests of the victim and society. Ideally, justice should reflect a balance between these three aspects. To date, no comprehensive study has examined the termination of criminal acts due to mental illness from the perspective of substantive and restorative justice.

Based on these various issues, this research is crucial for reformulating the regulation of the termination of criminal acts on grounds of mental illness based on the values of justice. The approach used is not only normative but also empirical, thus providing a realistic picture of practices in the field. The research findings are expected to contribute to criminal law reform in Indonesia, particularly in realizing a more just, humane, and responsive criminal justice system to the needs of society.

Method

This research uses a sociological juridical approach with descriptive-analytical specifications, which examines the regulation of the termination of criminal acts due to mental disorders not only from a normative aspect, but also from the practical aspects of its implementation in society. (Sudaryono & Surbakti, 2005) The data used includes primary data in the form of interviews with law enforcement officers and mental health workers, as well as secondary data in the form of laws and regulations, literature, and previous research, collected through library research and interviews. Furthermore, the data was analyzed qualitatively to identify weaknesses in existing regulations and formulate a more equitable legal reconstruction.

Results and Discussion

1. Regulations on Termination of Criminal Acts on the Ground that the Perpetrator Suffers from Mental Disorders Are Not Based on Justice Values

The Indonesian criminal law system's regulation of the termination of a criminal act on the grounds that the perpetrator has a mental disorder is essentially based on the provision on excuses as stipulated in Article 44 of the Criminal Code. This provision states that a person who is unable to account for their actions due to a mental disorder cannot be subject to criminal punishment. Philosophically, this norm reflects the principles of humanity and justice, as the law cannot impose responsibility on an individual who lacks awareness or the ability to control their actions. (Waluyo, n.d.)

However, in terms of implementation, these regulations do not fully reflect the values of justice. This is due to a lack of synchronization between substantive criminal law (KUHP) and criminal procedural law (KUHAP). While the KUHP recognizes grounds for expungement of criminal convictions due to mental disorders, the KUHAP does not explicitly regulate the mechanism for terminating investigations or prosecutions based on

such grounds. Consequently, a legal vacuum exists, creating legal uncertainty for law enforcement officials in making decisions.

This lack of clarity in the regulations also leads to varying interpretations in practice. Law enforcement officials often face a dilemma in determining whether a case can be dismissed due to a perpetrator's mental illness. On the one hand, they are obligated to uphold the law and provide certainty, but on the other, they are also required to uphold the values of justice and humanity. Without clear guidelines, decisions tend to be subjective and potentially lead to disparities in law enforcement.

Furthermore, the assessment of a perpetrator's mental health condition relies heavily on expert testimony, which in practice often differs from one expert to another. This discrepancy creates uncertainty in the evidence and even opens up the possibility of manipulation or misuse of the mental health excuse by perpetrators to avoid criminal responsibility. This situation indicates that existing regulations are unable to guarantee objectivity and accountability in the law enforcement process.

From a justice perspective, existing regulations also tend to be more offender-oriented and less considerate of the interests of victims. Discontinuation of cases due to mental illness is often carried out without adequate consideration of victims' rights, such as the right to justice, reparation, and legal certainty. As a result, victims may feel neglected and deprived of adequate protection from the state. This indicates that the justice delivered remains formal and falls short of achieving substantive justice, which maintains a balance between all parties.

Furthermore, the lack of a clear monitoring and rehabilitation mechanism for perpetrators whose cases have been dropped is also a serious problem. In some cases, perpetrators previously declared ineligible for prosecution due to mental illness have re-offended. This demonstrates that dropping cases without structured follow-up not only fails to deliver justice but also has the potential to endanger the community. Thus, the aspect of community protection, as part of justice, has not been met.

From a justice theory perspective, this situation indicates a lack of balance between the three objectives of law: legal certainty, utility, and justice. Existing regulations fail to provide certainty due to the lack of clear standards, fail to provide utility due to their inability to prevent recurrence of criminal acts, and fail to provide justice due to their disregard for the interests of victims and the community. Therefore, a more comprehensive approach is needed to formulate legal regulations that can accommodate these three objectives in a balanced manner. (Aditya, 2024)

A restorative justice approach could be one solution to address this problem. Restorative justice emphasizes restoring relationships between the perpetrator, victim, and community, while also providing a space for victims to receive justice in a more humane manner. However, implementing this approach in cases of mental illness requires clear regulations, particularly regarding victim protection and mechanisms for perpetrator rehabilitation.

Thus, it can be concluded that the current regulation on the termination of criminal acts on grounds of mental illness is not based on values of justice, as it still lacks in normative, implementative, and victim and community protection aspects. Therefore, a more comprehensive, integrated, and substantive justice-oriented legal framework is needed to address community needs and increase trust in the criminal justice system. used.

2. Weaknesses of Regulations on Termination of Criminal Acts on the Ground that the Perpetrator Suffers from Mental Disorders

The Indonesian criminal justice system's regulation of the termination of criminal acts on the grounds of mental illness still harbors several fundamental weaknesses, both normatively and in practice. Normatively, Article 44 of the Criminal Code (KUHP) provides the basis that perpetrators who are unable to account for their actions due to mental illness cannot be punished. However, this provision has not been followed by adequate provisions in the Criminal Procedure Code (KUHAP) regarding the mechanism for terminating investigations or prosecutions on the grounds of mental illness. This situation creates a legal gap that directly impacts legal uncertainty in practice. (Indarti, 2008)

The first weakness lies in the lack of explicit provisions in criminal procedure law. The Criminal Procedure Code only recognizes grounds for terminating an investigation as stipulated in Article 109 paragraph (2), namely insufficient evidence, not a criminal act, and termination by law. However, the reason for mental disorders is not expressly included in this category. As a result, law enforcement officials often have difficulty determining the appropriate legal basis for terminating a case, potentially leading to inconsistencies and differences in practice between regions.

The second weakness is the lack of an operational definition and standard for mental disorders in the context of criminal law. The Criminal Code uses only general terms without providing clear parameters regarding the type, level, or criteria for mental disorders that can eliminate criminal liability. In practice, this is left entirely to psychiatrists, who in reality can have different approaches and diagnostic methods. As a result, the assessment of a perpetrator's mental state is highly subjective and has the potential to lead to uncertainty and disparity in verdicts

The third weakness relates to the non-standardized evidentiary process. The lack of clear guidelines regarding psychiatric examination procedures, expert qualifications, and measurement tools results in a heterogeneous evidentiary process. In some cases, differences of opinion between experts can significantly influence legal decisions. This situation even opens up opportunities for abuse, where perpetrators can exploit this loophole to avoid criminal liability by claiming mental illness.

The fourth weakness lies in the lack of protection for victims. Dismissals of cases on grounds of mental illness tend to focus on the perpetrator's condition without adequately considering the victim's rights and interests. In many cases, victims receive neither legal clarity nor redress for the losses they have suffered. This demonstrates that existing regulations remain offender-centric and do not reflect the principles of balanced justice.

The fifth weakness is the lack of a mechanism for monitoring and following up on perpetrators after a case is dismissed. In the existing system, the termination of an investigation or prosecution is often not accompanied by structured rehabilitation obligations or monitoring of the perpetrator's condition. Consequently, there is a risk that perpetrators who have not fully recovered may re-offend. This situation not only harms the victim but also threatens the safety of the wider community.

Furthermore, there are weaknesses in inter-agency coordination. Handling cases involving perpetrators with mental disorders should involve synergy between law enforcement officials and mental health professionals. However, in practice, this coordination remains suboptimal. The lack of integration between the legal and health systems results in fragmented and incomplete case management.

Another weakness is the lack of integration of a restorative justice approach into existing

regulations. The criminal justice system still tends to use a retributive approach focused on punishment. Therefore, when perpetrators cannot be punished due to mental illness, there is no alternative mechanism that can bridge the interests of victims, perpetrators, and the community. However, a restorative approach can be a solution to create more substantive justice through healing and reconciliation.

From a legal systems theory perspective, these weaknesses reflect problems in three main elements: incomplete legal substance, a suboptimal legal structure in implementation, and a legal culture that does not fully support a just approach. This suggests that the problem lies not only in legal norms but also in the practices and values that have developed within the criminal justice system.

Based on the weaknesses above, it can be concluded that the regulations regarding the termination of criminal acts on grounds of mental illness encompass normative, implementation, and structural aspects. The absence of clear regulations, the absence of standard operating procedures, weak victim protection, and minimal oversight mechanisms are the main factors that prevent these regulations from optimally achieving justice. Therefore, comprehensive and integrated legal reform is needed to address these weaknesses. (Rahardjo, 2005)

3. Reformulation of Regulations on the Termination of Criminal Acts Against Mentally Ill Offenders Based on Substantive Justice Values

The weaknesses in existing regulations demonstrate the need for legal reconstruction that is not only normative but also addresses philosophical, sociological, and implementative aspects. This reconstruction is aimed at creating a criminal justice system that balances the protection of perpetrators, the fulfillment of victims' rights, and the interests of society, based on the values of substantive justice. (Rodli, 2021)

First, reconstruction needs to begin with improving the substance of the law, particularly through harmonization of substantive criminal law (KUHP) and criminal procedural law (KUHAP). Regulations regarding mental disorders as grounds for the termination of criminal acts must be explicitly formulated in the KUHAP, thus providing a clear legal basis for law enforcement officials in making decisions. Furthermore, an operational definition of mental disorders based on modern mental health science needs to be formulated to avoid multiple interpretations and to serve as an objective reference in practice.

Second, standardization of procedures and mechanisms for psychiatric assessments is necessary. Assessment of the perpetrator's condition must be conducted through a structured mechanism, involving a multidisciplinary team of experts, and using scientifically sound diagnostic methods. Establishing clear criteria regarding the level of mental disorder that eliminates criminal liability is crucial to ensure consistency and accountability in the legal process. This will minimize subjectivity in assessments and enhance legal certainty.

Third, reconstruction must integrate a just case termination mechanism, which not only halts the legal process but also ensures clear follow-up action against the perpetrator. In this regard, case termination must be accompanied by the obligation to undergo structured medical and social rehabilitation. This rehabilitation aims to restore the perpetrator's mental health while preventing recurrence of the crime. Therefore, case termination does not constitute impunity, but rather part of a responsible resolution process.

Fourth, it is necessary to establish an independent institution or special oversight mechanism tasked with monitoring perpetrators whose cases are terminated due to mental illness. This institution could consist of law enforcement officials, mental health

professionals, and social workers. Its primary function is to conduct regular evaluations of the perpetrator's condition, ensure rehabilitation, and assess the level of risk to the community. The existence of this institution is crucial to ensure accountability and prevent potential abuse.

Fifth, regulatory reconstruction must strengthen victim protection as an integral part of justice. Dismissal of cases must not undermine victims' rights to justice and restitution. Therefore, mechanisms for compensation, restitution, or other forms of reparation for victims need to be regulated. Furthermore, victims need to be proportionally involved in the case resolution process, particularly within the framework of a restorative justice approach. (Susanto, 2010)

Sixth, this reconstruction must integrate a restorative justice approach as a paradigm in case handling. Restorative justice provides space for dialogue between the perpetrator, victim, and community to achieve a more humane and sustainable resolution. In the context of perpetrators with mental disorders, this approach needs to be tailored to the perpetrator's condition, while still prioritizing the principles of victim safety and protection. This approach is oriented not only toward recovery but also toward the perpetrator's social reintegration into society.

Seventh, cross-sectoral coordination between law enforcement officials, mental health workers, correctional institutions, and the community is needed. Handling cases involving perpetrators with mental disorders cannot be done in isolation but requires an integrated approach. This synergy between institutions is crucial to ensure that every stage, from investigation to rehabilitation, is effective and sustainable.

Eighth, reconstruction must also encompass changes in legal culture through education and outreach to the community. Stigma against individuals with mental disorders often hinders social reintegration. Therefore, efforts are needed to increase public understanding of mental disorders and the importance of a humanistic and equitable approach. This change in legal culture will support the successful implementation of the reconstructed regulations.

Overall, this regulatory reconstruction aims to create a legal system that is oriented not only toward certainty but also toward utility and justice. The proposed approach prioritizes a balance between the rights of perpetrators, the protection of victims, and the interests of society, thus reflecting the values of substantive justice that are the primary goal of law

Thus, reconstructing the regulation on the termination of criminal acts on grounds of mental illness is a strategic step in reforming criminal law in Indonesia. Through more comprehensive, integrated, and justice-based regulations, it is hoped that the criminal justice system will become more humane, responsive, and able to address the complex challenges of modern society.

Conclusion

Regulations for the termination of criminal acts on the grounds of mental illness in Indonesia are not fully based on the values of justice due to the lack of integration of substantive criminal law and criminal procedural law, resulting in legal uncertainty and a lack of protection for victims and the community. Furthermore, various weaknesses exist, such as the lack of standard assessments of mental illness, the subjectivity of experts, and the lack of mechanisms for monitoring and rehabilitating perpetrators. Therefore, a comprehensive reconstruction of legal arrangements is needed through regulatory harmonization, standardization of psychiatric assessments, strengthening rehabilitation and supervision, and implementing a restorative justice approach to create a more just,

humane, and responsive criminal justice system.

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