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# RENEWAL OF THE CRIMINAL JUSTICE SYSTEM THROUGH THE *CONSTANTE JUSTITIE* PRINCIPLE THAT GUARANTEES THE SATISFACTION OF THE *JUSTITIABELEN*

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**Abstract**

*The Principle of Constante Justitie, or the principle of a simple, fast, and light trial, is intended to solve cases in a short period of time. The problems in this paper are: (1). how is the application of the Constante Justitie principle or the simple, fast, and low-cost principle as expected by justitiabellen? (2). How to renew the criminal justice system through the principle of Constante Justitie, which can guarantee justitiabellen satisfaction. This research is normative juridical research, namely legal research that aims to find methods, norms, or das sollen. The results showed that applying the principles of justice, fast, and low costs that guarantee the satisfaction of the justitiabellen have not been following the mandate of laws and regulations. The renewal of the criminal justice system, especially the Principle of Constante Justitie, which can guarantee justitiabellen satisfaction, has now been pursued by the Supreme Court by issuing various regulations such as the Supreme Court Rules (PERMA) or Supreme Court Circulars ( SEMA), but it has not been successful.*

***Keywords: Criminal Justice; Justitiabellen; Principle; System; Updates***

## 1. INTRODUCTION

The criminal justice system is defined as the working mechanism of each component in the capacity of their respective functions in dealing with criminal acts."[1] In essence, the criminal justice system is a *"network system involving elements of the police, prosecutors, and courts as well as correctional institutions to participate in tackling crime."*[2]

In other words, the criminal justice system has an institutional structure divided into various agencies or institutions such as the police, prosecutors, courts, and correctional institutions. These four bodies or institutions are administratively not in one body with a central power but are divided and independent. In such a situation, "these four

[1] Angga Putra, "Pembaharuan Sistem Peradilan Pidana Melalui Penataan Administrasi Peradilan," *Lex Crimen* 4, no. 3 (2015): 50.
[2] Achmad Budi Waskito, "Implementasi Sistem Peradilan Pidana Dalam Perspektif Integrasi," *Jurnal Daulat Hukum* 1, no. 1 (2018): 288.

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components are expected to work together to form and synchronize the implementation of law enforcement, known as an integrated criminal justice administration.*"*[3]

"The criminal justice system is expected to be able to overcome the crimes so that it is within the limits of community tolerance."[4] This system is considered successful if most of the reports and complaints of the people who are victims of crime can be resolved. In particular, the solution prioritizes "due process of law, which is defined as a legal process that is good, true, and fair and is related to the concept of human rights."[5] This due process of law is in line with the principle of a fair trial, which is an "indicator of the realization of a fair and impartial judicial system."[6]

One of the determinants of the implementation of the criminal justice system is the substance component (material) which is the starting point or operational signs in carrying out criminal justice practices. One of the materials that regulate the practice of criminal justice is the source of criminal procedural law. One of the sources of criminal procedural law that is used as the basis for running the criminal justice system is the principle of constante justitie or "the principle of fast, simple, and low-cost justice."[7]

In general, it can be understood that the principle of Constante Justitie or the principle of fast, simple, and low-cost justice is the elaboration of Law Number 48 of 2009 concerning Judicial Powers that courts assist justice seekers and try to overcome all obstacles to achieve swift justice, simple and low cost. The principle of constante justice is understood simply as how the courts receive, examine, and decide cases following the laws and regulations.

The principle of *constante justitie* guarantees that settling every case in court does not take long. In other words, the case is not complicated. It is in line with the mandate of Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power which substantially emphasizes that the judiciary must be carried out effectively and efficiently. The meaning is "trials that are carried out simply, do not take a long time, and save costs during the judicial process."[8]

Justice seekers or *justitiabellen* hope that court institutions can provide justice, legal certainty, and benefits when cases are delegated and examined until the court decides them by the expectations of the community or justice seekers themselves. This reality would be an interesting note on the judicial power law, where the formulation of norms has not been in accordance with its implementation. Thus, through this paper, it is

[3] Sri Hartini, "Kajian Tentang Kemandirian Lembaga Kepolisian Dalam Penegakan Hukum Pada Era Reformasi," *Jurnal Civics: Media Kajian Kewarganegaraan* 7, no. 1 (2010).

[4] Putra, "Pembaharuan Sistem Peradilan Pidana Melalui Penataan Administrasi Peradilan."

[5] July Wiarti, "Tindakan Tembak Mati Terhadap Terduga Teroris Berdasarkan Perspektif Proses Hukum Yang Adil," *Lex Renaissance* 4, no. 1 (2019): 1–24.

[6] Zainal Abidin, "Inkorporasi Hak-Hak Fair Trial Dalam Rancangan Undang-Undang Hukum Acara Pidana," *Jurnal Hak Asasi Manusia* 15, no. 1 (2022): 44–69.

[7] Yasser S Wahab, Julianto J J Kalalo, and Lisa Mery, "Penggunaan Media E-Mail Sebagai Sarana Beracara Contante Justitie Pada Pengadilan Di Indonesia," *Hasanuddin Law Review* 1, no. 2 (2015): 194–209.

[8] Majolica Fae Ocarina and Ronaldo Sanjaya, "Eksistensi E-Court Untuk Mewujudkan Efisiensi Dan Efektivitas Pada Sistem Peradilan Indonesia Di Tengah Covid-19," *Jurnal Syntax Transformation* 2, no. 4 (2021): 496–507.

expected that there will be efforts to reform the law, especially the law on judicial power which regulates the criminal justice system through the application of the principle of constante justitie.

The application of the principle of constante justice in the criminal justice system seems to be something difficult to implement. On the other hand, the regulations and orders in the legislation indicate that judicial power does not appear to be complicated to implement. It is certainly rather difficult for the judiciary to maintain the dignity of the court as the last place for justice seekers to get justice.

## 2. ANALYSIS AND DISCUSSION

### 2.1. Application of the Principle of Constante Justitie and the Hope of Justitiablen

Sidharta stated that the principle of law is "the most general principle that contains ethical values, which can be formulated in or outside the legal system. Legal principles are meta-rules behind the rules, which contain value criteria that guide behavior requiring elaboration or concretization into legal rules."[9] Meanwhile, Rahardjo explained that "the effort to formulate legal principles begins with looking for the meaning of a regulation, or elevating a legal regulation to a higher level which is generally known as the activity of looking for the ratio legis." [10]

Justice seekers (justitiabelen) want cases submitted to the court to be resolved by expectations as stipulated in the legislation. The provisions of these laws and regulations are simple, fast, and low-cost or Constante Justitie, which is the main principle of implementing criminal procedural law. Justice seekers not only expect "legal certainty and justice but also hope for the benefits of the judicial process as the purpose of the law adopted by Indonesia."[11] These signs become the main starting point for implementing criminal justice practices. "The simpler the proceedings in court, the better. On the other hand, too many or convoluted proceedings will be more challenging to understand and lead to various interpretations, so there is no guarantee of legal certainty."[12]

In general, the District Courts in the Gorontalo area try to optimize the policies issued by the Supreme Court. However, it is more challenging to implement. According to the Head of the Gorontalo District Court, Prayitno Imam Santoso,[13]

> *"The difficulty in implementing the policy was due to, among other things, the disobedience of the parties involved in the trial in keeping the time allotted. Another reason for the lack of smooth implementation of the policy, apart from the lack of up-to-date information systems in court, is the absence of judges at trial due to illness or sudden busyness,*

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[9] Shidarta, *Moralitas Profesi Hukum: Suatu Tawaran Kerangka Berpikir* (Refika Aditama, 2006).

[10] Satjipto Rahardjo, *Ilmu Hukum*, 8th ed. (Bandung: Citra Aditya Bakti, 2016).

[11] Fathor Rahman, "Perbandingan Tujuan Hukum Indonesia, Jepang Dan Islam," *Khazanah Hukum* 2, no. 1 (2020): 32–40, https://doi.org/10.15575/kh.v2i1.7737.

[12] Rosdalina Rosdalina and Edi Gunawan, "Penerapan Asas Hukum Dalam Penyelesaian Perkara Di Pengadilan Agama," *Al-Daulah: Jurnal Hukum Dan Perundangan Islam* 7, no. 2 (2017): 342–65.

[13] Santoso, Prayitno Imam, interview by Fence M. Wantu. 2021. *Diskusi Kerjasama Antara FH UNG dan PN Gorontalo Terkait Isu-Isu Hangat di Provinsi Gorontalo*

*such as having to attend an event organized by the Supreme Court which coincides with the time of the trial."*

The guarantee for a fast, simple, and low-cost judicial process is contained in the provisions of Article 17 of Law Number 39 of 1999 concerning Human Rights[14] which states that: Everyone without discrimination has the right to obtain justice by submitting applications and lawsuits in criminal, civil, and criminal cases. and administration, and tried through an independent and impartial judicial process, under procedural law which guarantees an objective examination by an honest and fair judge to obtain a fair and correct court decision.

The trial at the Gorontalo District Court has actually been completely scheduled. However, in reality, there are some participants in the trial who are not punctual. For example, the schedule that has been determined is at 09.00 but the trial will start at 16.00 due to various reasons. The same phenomenon occurred at the Limboto District Court[15], Tilamuta District Court[16], and Marisa District Court[17] where the trial which was originally scheduled at 09,000 or 10:00 WITA was shifted to 15:00 WITA and then shifted again to 19.30 WITA even until the next trial which would surely disrupt another trial that had already been held. scheduled.

Based on this fact, it appears that the practice of the principle of Constante Justitie in the Gorontalo Province court area is not as easy as imagined. There are many reasons why this principle does not work properly. The two main ones are internal factors or influences from within the court and external factors or influences from outside the court.

One example of an internal factor is the summoning process. If the address of the trial participant is not clear and far away, the summoning process may be slow or take a long time. Another internal factor is the number of cases that came in at almost the same time which led to calls at different times. In effect, "a lot of cases are piled up in court so that the settlement will take a long time and cost a lot of money." [18]Another important internal factor is facilities and infrastructure. Almost all district courts in Gorontalo Province have a limited number of court rooms. This problem is exacerbated by the lack of human resources such as judges in each court.

Meanwhile, external factors include the lack of budget to summon parties involved in the trial. This problem is exacerbated by the impartiality of the trial participants. As a result, the trial was delayed and even had to be rescheduled. The uncooperativeness of these parties also turned out to be a latent problem in various district courts. For

[14] Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia, diundangkan pada tanggal 23 September 1999

[15] Data Di Pengadilan Negeri Limboto September 2021

[16] Data di Pengadilan Negeri Tilamuta September 2021

[17] Data di Pengadilan Negeri Marisa September 2021

[18] Netty Herawati, "Implikasi Mediasi Dalam Perkara Perdata Di Pengadilan Negeri Terhadap Asas Peradilan Sederhana, Cepat, Dan Biaya Ringan," Perspektif 16, no. 4 (2011): 227, https://doi.org/10.30742/perspektif.v16i4.85.

example in the Singaraja District Court Class 1B. The litigants often do not attend the trial, thus hampering the ongoing legal process."[19]

In accordance with the rules issued by the Supreme Court, SEMA No. 2 of 2014, every case in the District Court of the first instance must be completed no later than 5 to 6 months. If it has not been completed within the specified time period, the panel of judges must report any obstacles encountered in the settlement of the case.

From the research carried out at the Class I A Gorontalo District Court, it can be seen that the Class I A Gorontalo District Court has made various innovations towards a better direction to support the application of simple, fast and low-cost judicial principles. One of the latest innovations made by the Gorontalo District Court is the One Stop Service. The one-stop integrated service aims to bring services closer to the community and shorten the service process to realize fast, easy, cheap, transparent, certainty, and affordable services.

### 2.2. Renewal of the Criminal Justice System through the Contante Justitie Principle

Reform of the judicial system is carried out as a link in legal development. The link between the judicial system's reform and the law's development is because the judicial system is a mechanism for maintaining the legal system. On the other hand, the judicial system is part of the legal structure which, according to Azmi Fendri,

> *"It is necessary to reform the legal structure through institutional strengthening by increasing the professionalism of judges, judicial staff, and the quality of an open and transparent judicial system; simplifying the judicial system; increasing transparency so that the judiciary is accessible to the public and ensure that the law is applied fairly and impartially, and strengthening local wisdom and customary law to enrich the legal and regulatory system through the empowerment of jurisprudence to renew national legal materials."*[20]

In addition, reform of the judicial system must be carried out in line with the legal development agenda. "Legal development is a sustainable development that functions as the protection of human and legal interests to create order and balance."[21]

Reform of criminal law from another perspective can be interpreted as an effort to review and reassess (reorient and re-evaluate) the socio-political, socio-philosophical, and socio-cultural values that underlie criminal policy and provide normative content and substantive content of the aspired criminal law. It is not a renewal (reform) of criminal law if the orientation values of the aspired criminal law (for example, the New

[19] Kadek Oldy Rosy, Dewa Gede Sudika Mangku, and Ni Putu Rai Yuliartini, "Peran Mediasi Dalam Penyelesaian Sengketa Tanah Adat Setra Karang Rupit Di Pengadilan Negeri Singaraja Kelas 1B," *Ganesha Law Review* 2, no. 2 (2020): 155–66.

[20] Azmi Fendri, "Perbaikan Sistem Hukum Dalam Pembangunan Hukum Di Indonesia," *Jurnal Ilmu Hukum* 2, no. 2 (2011): 5.

[21] Wahju Prijo Djatmiko, "Paradigma Pembangunan Hukum Nasional Yang Responsif Dalam Perspektif Teori JH Merryman Tentang Strategi Pembangunan Hukum," *Arena Hukum* 11, no. 2 (2018): 415–33.

Criminal Code) are the same as the old criminal law inherited from the colonialists. Therefore, "legal development must be comprehensive and interpreted broadly."[22]

The scope of reform of the criminal law system includes the Renewal of the Substance of Criminal Law, the Reform of the Criminal Law Structure, and the Renewal of Criminal Law Culture. In other words, reforming the criminal justice system involves various aspects, such as improving human resources through improving the quality of judges and improving judicial administration such as the judicial process.

Efforts to reform the criminal justice system are through policies, such as Supreme Court Regulations, Supreme Court Circulars, Supreme Court Decisions, or Instructions from the Chief Justice of the Supreme Court. The various policies issued are aimed at improving the quality of the judicial process that can satisfy justice seekers and the community.

The Supreme Court issued Supreme Court Regulation Number 3 of 2018 concerning Guidelines for the Administration of Cases in Courts Electronically dated March 29, 2018 and officially promulgated on April 4, 2018 as a legal basis for electronic products or E-court. The issuance of this regulation is a solution for people who have been constrained by time, distance, and cost. Time and distance are no longer an obstacle because people can register online via e-filing via the website that has been provided. The Supreme Court Regulation Number 3 of 2018 essentially seeks to implement the effective and efficient principle of constante justice.

Based on the opinion of one of the legal advisors, namely Duke Widagdo, most of the scheduled hearings for criminal cases, both at the Gorontalo District Court and even the Tilamuta District Court, the trial is carried out until the evening. Even though the trial has been held since the morning, it is imaginable how tired those involved in the trial started from legal advisors, public prosecutors, clerks, the panel of judges, and witnesses waiting their turn to be examined.

The Circular Letter of the Supreme Court Number 2 of 2014 concerning Settlement of Cases in the Courts of First Level and Appeals in 4 (Four) Judicial Environments (after this referred to as SEMA No. 2 of 2014) is a technical guideline for the implementation of the judicial process which regulates the period of settlement of cases. The contents of the SEMA mandate that the judicial process at the First Level does not exceed five months.

The slow progress of criminal case justice is that the judicial system involves many parties: judges, clerks, parties, lawyers, and prosecutors. The judges may postpone the trial for various reasons, such as toothache, the request of one of the parties, the absence of the lawyer without notification, or the request of a legal advisor to postpone the trial since he has to attend another trial.

[22] Yenny Yorisca, "Pembangunan Hukum Yang Berkelanjutan: Langkah Penjaminan Hukum Dalam Mencapai Pembangunan Nasional Yang Berkelanjutan," *Journal of Chemical Information and Modeling* 17, no. 1 (2020): 100.

The criminal justice system (integrated) can have an internal dimension or an external dimension.[23] The internal dimension is the attention directed to integrating the judicial subsystem, such as the police, prosecutors, courts, and correctional institutions. Meanwhile, the external dimension is more due to its almost unbiased relation to the broader social system, including the legal culture of power and society, political, economic, social, science and technology developments, and education.

To hope for the realization of a judiciary by the principle of constante justitie seems difficult to achieve and implement because each institutional structure of each agency in the criminal justice system has its power centers. All of them have equal authority to control their respective institutions. Historical evidence has shown that many cases occurred where there was a lack of integration between the agencies. It was proven that what was produced by the constante justitie judicial principle was sometimes not in line with the expectations of the prosecutor and/or the police, and vice versa. These four components should work in an integrated manner to achieve the system's objectives, especially in applying the principle of constante justice.

Reforming the criminal justice system through consistently applying the principle of constante justice is necessary. It means

it is not only displayed in the source of procedural law but needs to be implemented as signs must be implemented. Another thing that needs attention is Law no. 8 of 1981 concerning the Criminal Procedure Code or known as the Criminal Procedure Code (KUHAP). Even though this law has once been considered a masterpiece, it is not optimal in its journey in the criminal justice system.

In the end, in realizing the principle of constante justitie in the district court of the Gorontalo Province, all components involved in the criminal justice system must be involved. Components involved in criminal cases must take their respective roles and responsibilities to maintain the dignity of these principles in court. This form of responsibility will undoubtedly influence the level of trust of justice seekers (justitiabellen) in the institution where justice seekers get justice, namely the court itself.

The spirit to realize the principle of constante justitie in court must be able to resolve a pile of cases that have been problems in the judiciary that have never been completed to be resolved. Implementing the principle of constante justitie in the district court in the province of Gorontalo is also one of the contributions to realizing a better criminal justice system in the future.

## 3. CONCLUSION

Based on the results and discussion, several points can be concluded. The application of the Constante Justitie principle or the principle of fast and low cost that ensures the

[23] Angga Putra, *Opcit*. Hlm 50-51.

satisfaction of justice seekers (justitiabellen) is not in accordance with the mandate of the legislation. The reform of the criminal justice system, especially the Constante Justitie principle or the simple, fast, and low cost principle that can guarantee the satisfaction of justitiabellen or justice seekers is currently being pursued by the Supreme Court by issuing various regulations, such as the Supreme Court Regulation or PERMA, and the Supreme Court Circular. or SEMA. However, it hasn't worked. For this reason, realizing a fast and efficient judiciary is the shared responsibility of all parties.

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