DIMENSIONS OF JUSTICE IN ABSENTIA 
IN HUMAN RIGHTS PERSPECTIVE

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ABSTRACT: Scientific writing is oriented to find out how the development of Judiciary in Absentia in the justice system in Indonesia according to positive law and its relevance to the right of the defendant to obtain and defend according to Act Number 8 of 1981 concerning Criminal Procedure Law and what the impact of the implementation of the court of In Absentia for the perpetrators of Economic Crimes (Money Laundering and Corruption) who wish to escape legal entrapment. Scientific writing uses the method of Sociological Legal Research (socio legal research) and it can be seen that: 1) The development of the judiciary in absentia in the justice system in Indonesia, the Judiciary in absentia which even though it does not yet have definite rules or there is no clear regulation regarding the judiciary in absentia, but so far the judiciary in absentia has provided a satisfactory contribution to the justice system in Indonesia based on Act Number 8 of 1981 concerning the Criminal Procedure Code. There are aspects that are contrary to the conduct of the judicial In Absentia in cases specifically in Economic Crime cases, namely the human rights perspective (specifically the defendant's right to defend). The Court Principles Examine Criminal Cases with the Presence of Defendants in the Criminal Procedure Code. The biggest contribution of the judiciary in absentia is mainly in combating and handling crimes that cross territorial or extra ordinary territories. 2) The impact of the judiciary in absentia, the good performance of the implementation of the judiciary in absentia turned out to have more positive impacts than negative impacts. As the best outcome of the implementation of the judiciary in absentia is to narrow the possibility of perpetrators of crimes fleeing or escaping from the law.

Keywords: Dimensions, Justice, In Absentia, Perspective, Human Rights

1. INTRODUCTION

Provisions in Act Number 8 of 1981 concerning the Criminal Procedure Law regulates the procedure for resolving a criminal case through a court, in connection with this matter the author is interested in writing the process of resolving a case through Judicial In Absentia. The settlement of a criminal case should present the defendant, but in the Judicial In Absentia the resolution of the case specifically the case of Corruption Crime, Terrorism Crime, and in the Crime of Money Laundering can be done even without the presence of the accused, depriving the defendant of the right to do the defense in a later trial is very contrary to one of the principles in the Court, namely the principle of the Court to examine criminal cases with the presence of defendants. In the Criminal Procedure Code, it also does not regulate the existence of an In Absentia court with such clause "If the defendant turns out to be legally summoned but does
not come to the court without a valid reason, the hearing cannot be held and the presiding judge orders that the defendant be called once again”, even if a court requires continuing the trial without the presence of a defendant, it is sufficient in a traffic case because where a defendant does not have to defend. In detail there are aspects that are contrary to the conduct of the in-absentia trial in cases specifically the case of Corruption Crime, Terrorism Criminal Actions, and in Money Laundering Crimes namely:
1. Human Rights Violations, specifically the deprivation of the defendant's right to defend.
2. The Criminal Procedure Code.

This fact is weakened by Article 38 paragraph (1) of Act Number 20 of 2001 concerning Amendment to Act Number 31 of 1999 concerning Eradication of Corruption Crime namely "In the event that the defendant has been legally summoned, and is not present at the trial without reason the legal case can be examined and decided without its presence" and Article 79 Paragraph (1) of Act Number 8 of 2010 concerning Prevention and Eradication of Money Laundering which states that" In the event the defendant has been legally summoned and deserves to be present at the trial without reason legal cases can be examined and decided without the presence of the defendant. Justice in absentia is also not entirely contrary to other rules, the judiciary in absentia is carried out because it anticipates things that hinder the process of resolving a case or an action taken by the perpetrators of a crime who intends to try to escape criminal charges because the perpetrator pretends to pretend to be sick or want to go abroad for treatment especially to countries that do not enter into extradition agreements with Indonesia, these things have become entrenched in our country, after reflecting on this experience, it is very necessary to deal with these crimes in the Absentia Court.

2. LITERATURE REVIEW AND HYPOTHESIS DEVELOPMENT

The concept of Absentia is a term from Latin which literally means "absence". In legal terms, the court in absentia is an attempt to try someone and punish him without being attended by the defendant. In the Indonesian Criminal Procedure Code, this is not clearly regulated. The theory used in this writing is the theory of retributive justice, restorative justice and utilitarianism.

Furthermore, the hypothesis in scientific writing is: The development of justice in absentia in the justice system in Indonesia, contributes to eradicating and dealing with crimes that are trans-territorial in nature. The impact of the judiciary in absentia, namely narrowing down the likelihood of criminals escaping from the law.

3. RESEARCH METHODS

This scientific writing uses the method of Sociological Legal Research (socio legal research). Sociological Legal Research (socio legal research) is a study that focuses on the law as a norm, thus constituting positive legal research. This study aims to describe the reality in accordance with the phenomenon in detail and thoroughly, as well as collecting data from a natural setting by utilizing the researcher as a key instrument as a guide to the problems to be studied. Scientific writing uses a qualitative approach method as a research process that produces descriptive data in the form of written or oral data observed.

4. DISCUSSION AND ANALYSIS OF DISCUSSION
Development of Judiciary in Absentia in the Judicial System in Indonesia According to Positive Law and Its Relevance with the Rights of Defendants to Obtain and Conduct Defense According to Act Number 8 of 1981 concerning Criminal Procedure Law

The dimension of Justice in absentia in criminal law encourages lawmakers to try to establish an official interpretation other than the Emergency Act Number 7 of 1955 concerning Economic Crime, the judiciary in absentia in criminal law in the economic field (broad meaning) is also regulated in the Act Number 8 of 2010 concerning Prevention and Eradication of Money Laundering and Act Number 31 of 1999 as amended in Act Number 20 of 2001 concerning Eradication of Corruption Crimes. If we look carefully, the provisions in the two articles are a mirror of Article 16 paragraph (1) and paragraph (6) Emergency Act Number 7 of 1955 concerning Economic Crime, in which the two articles are governed by 2 (two) types people who can be tried in absentia, namely:
1. People who are not present even though they have been legally called.
2. The person who has died before the judge's decision is handed down and there is convincing evidence that the person has committed a money laundering crime.

While Act Number 31 of 1999 as amended in Act Number 20 of 2001 concerning Eradication of Corruption Crimes in absentia is regulated in Article 38 paragraph (1), which in the event the defendant has been legally summoned, and is not present at the hearing court without valid reason, the case can be examined and decided without the presence of the defendant. Different from the previous Law (Emergency Act Number 7 of 1955 concerning Economic Crime and Act Number 8 of 2010 concerning Money Laundering), Act Number 31 of 1999 as amended in Act Number 20 of 2001 the Eradication of Corruption Act only regulated one type of person who could be tried in absentia, namely: a person who had been legally summoned, but who was not present at the trial without a valid reason. While for people who died at the time of the examination in the court, while there have actually been losses in the State's finances, the case against him will be transferred to the claim of compensation in a civil suit. This is as stated in Article 34 of Act Number 31 of 1999 as amended in Act Number 20 of 2001 concerning Eradication of Corruption Crimes.

In the event that the defendant dies during an examination at the court, while in reality there has been a loss of State finances, the public prosecutor immediately submits a copy of the minutes of the hearing to the attorney of the State or is submitted to the aggrieved agency for a civil claim to the expert his inheritance. In absentia in the sense of the absence of the defendant in the trial process (permanent). In the court proceedings, especially in the form of defendants not present due to various reasons, at the same time the absence of the defendant by the judges must be carried out, the consequences of a trial cannot be carried out in the form of a defendant's statement, clarification of witnesses' testimony, validity of evidence the appellate legal process, cassation and reconsideration of the case become chaotic. The provisions in the Criminal Procedure Code do not explain in detail the issue of In Absentia where the defendant fled or DPO (List of People Search) except the absence was caused by conditions such as illness, unable to get permission from the judge or carry out State duties based on the notification given by the defendant to panel of judges.

The type of absentia is regulated in the Criminal Procedure Code: The court decides the case with the presence of the defendant except in the case of this Act determining otherwise. An important element is except in the case of this Act determining otherwise. The defendant can appoint a person with a letter to represent him in the court. To see the above, the elements...
contained in the article are "Letters" in the sense that the letter is in the form of a power of attorney signed by the defendant (specifically minor violations). If the defendant or his deputy is not present at the hearing, the case examination is continued. The matter of the case investigation was continued with the intention of the case investigation proceeding with the agreement of the parties namely the prosecutor and lawyer by reading out the information of the Examination Minutes concerned either the witness or the defendant. In the event that the decision was handed down outside the presence of the defendant and the decision was in the form of a criminal offense, the defendant could file a resistance. These elements are:

1. The verdict was dropped outside the presence of the defendant "The definition of the decision was read before the court hearing without the presence of the defendant".
2. The decision was in the form of a criminal offense for independence "The definition of the decision read by the judge unintentionally carried out the deprivation of the rights and independence of the defendant".
3. The defendant can file a resistance "The definition of the defendant appealed the decision which has taken away the right".
4. In absentia DPO (List of People Search) In the case of absentia the defendant escaped when the trial proceeded whether the proceedings could proceed, the answer to the perspective of the Criminal Procedure Code then could not, basically was in the process of trial many rights the defendant is missing and proof of the mistake.

**Impact of the Implementation of Judiciary in Absentia for Perpetrators Who Want to Escape the Law.**

The policy in law has the effect of either the negative impact or the positive impact, the following will be described in various perspectives regarding the implementation of the judiciary in absentia: The impact of the judiciary in absentia is viewed from an economic perspective. When the judiciary in absentia is implemented, there are a number of things that will happen: first, the money from the crime that is intended to be violated can be returned quickly to the owner without having to wait for the defendant to appear in the courtroom to accept the judge's decision. or state-owned money and so on. Second, no longer issuing money belonging to the State to search for suspects or defendants (in this case the suspect or defendant fled abroad). Courts in absentia can reduce spending on state-owned money. The right, fast, and agile handling of crimes especially in economic crimes can at least stabilize the country's economy.

Therefore, it is necessary to take serious care from law enforcers against crimes or crimes committed by people or groups of irresponsible people. In terms of carrying out the judiciary in absentia or it can be referred to as the acceleration of a judicial process facilitates or eases the work of the Budget User Proxy to complete its duties within the scope of the Supreme Court itself and for the Judiciary below, as stated in the Supreme Court Circular Number: 042- 1 /SEK/KU.01/01/2014 concerning the Implementation and Accountability of Budget Realization within the Supreme Court and the Judiciary below:

1. Article 3 (additional regulations) Authority of Budget User Proxies to conduct treasury checks on expenditure of at least 1 (one) month in 1 (one) budget year delegated to Commitment Making Officials, and Commitment Making Officials report in writing the results of cash checks Treasurer referred to the Budget User Proxy.
2. Article 4 (additional regulation) Authority of Budget User Proxy to sign the bookkeeping of treasurer expenses every month is delegated to Commitment Making Officials, and Commitment Making Officials submit 1 (one) duplicate bookkeeping of said expenditure to the Budget User Authority.
Furthermore, the impact of justice in absentia is viewed from a social perspective. The high crime rate is the impact of the very low handling of law enforcers, the number of perpetrators of corruption in Indonesia does not rule out the possibility of money laundering crimes among officials and among other influential people or groups of people. The Indonesian people, like being biased by the slow handling of the law and the many gaps that can be penetrated by the perpetrators of crime, and the weakening of awareness to arrest, prosecute and prosecute law enforcers make anyone who has power and others easily penetrate or avoid from legal entanglement. One way to avoid legal entanglement is by escaping abroad for certain reasons with the aim of avoiding the inspection process in a court. Preventing these things from happening in Act Number 20 of 2001 concerning the Eradication of Corruption Crime and Act Number 8 of 2010 concerning Prevention and Eradication of Money Laundering allowing examinations in a court to be carried out without the presence of a suspect or defendant (court in absentia).

As for the things that will occur as a result of the trial in absentia: first, it will cause a deterrent effect for the perpetrators of crimes that are contradictory in a case settlement. Secondly, information about settlement of cases can be immediately known by the public in general as emphasized in the Public Court Examination Principle. Third, the loss of rights as citizens of the community to defend themselves in court.

The impact of the judiciary in absentia is viewed from a political point of view. A large crime must be committed by a person or a large group of people, in the event that a crime carried out on a large scale also crosses territorial boundaries can be ascertained as a structured and planned crime. All communities and groups and positions want a fast and appropriate handling process, so that there is someone who wants the process to be handled in an ordinary way and some who want to take it seriously and there is even a group of people who try to intervene in law enforcement to speed up the process settlement of a case (by forcing law enforcers to examine and decide cases without the presence of a suspect or defendant) because of political interests in them. It can be concluded that the judiciary in absentia viewed from a political point of view can cause several things as follows:
1). Abuse of power.
2). Excessive intervention has caused errors in the settlement of a case by law enforcement officials.
3). There was a clash between politics and law.

The impact of justice in absentia is viewed from the perspective of human rights. Justice in absentia can have a very significant impact on one's human rights, especially regarding the right of a citizen to defend in a court session. As for some of the effects or effects of the judiciary in absentia on human rights: first, someone will lose his right to defend himself from the charges of the Public Prosecutor. Secondly, the suspect or defendant will feel oppressed because the case was unilaterally terminated. Talking about human rights will certainly lead to many pros and cons of how to implement human rights and deprivation of human rights. It cannot be denied that many people who want human rights must be upheld even though it must conflict with the law enforcement process, this happens because many people do not understand how, from whom and for whom these rights are given. If we are more critical in understanding human rights, we can conclude that human rights are given by law, so the law can also take those rights if they are contrary to the rule of law or the processes of law enforcement.

Broadly speaking, the judiciary in absentia has a more positive impact than the negative impact, in this case the judiciary in absentia can be a progress for the justice system and the process of
handling a case. If further studies are conducted in absentia the judiciary can actually be used as the main weapon to deal with bandits who have power and are immune from the law.

The proliferation of criminal acts, especially in economic crimes, are mostly carried out by respected people or people who have power so that they can freely escape from legal entanglement, so it seems very visible that there is a legal vacuum. So many gaps that can be penetrated to escape legal entanglement have been greatly helped by the existence of a judiciary in absentia (examination and even the process of making a decision in a court session without being attended by a suspect or defendant).

The effects of the judiciary in absentia on suspects or defendants so that the law gives the defendant the right one of which is the right of the suspect or defendant to take advantage of legal remedies: As we all know the law provides a possibility for defendants, defendants and convicts to refuse court rulings. Dissatisfaction with suspects, defendants, and convicts: entitled to use ordinary remedies, in the form of requests for an appeal to the high court or request for an appeal to the Supreme Court, entitled to use extraordinary legal remedies: in the form of a request for a "judicial review" of court decisions obtain permanent legal force. It is not impossible to make mistakes in the process of examination and decision making in court proceedings that are not attended by the suspect or defendant. The possibility of error is very large because there are so many interests in it, we can see these interests from the background of the problem of the occurrence of crimes which in general can only be done by officials of the State or also the state apparatus.

The way to overcome the problem in making mistakes in court hearings is by way of compensation. Compensation is in civil law and criminal law, but there are differences between the two, namely: in criminal law the scope of compensation is narrower than the provision of compensation in civil law. The following are divided into 2 (two) matters of compensation, namely:

1. The scope of compensation in civil law is broader than compensation in criminal law, because compensation in civil law (referring to Article 1365 of the Civil Code) is to return the plaintiff to the original condition before the loss caused by the defendant happen. In civil law compensation can be requested as high as possible (no maximum and minimum amount) including material and immaterial losses. Material losses are losses that can be calculated with money, loss of wealth which is usually in the form of money, including losses suffered and already suffered. While immaterial losses / fair losses or moral losses, namely losses that cannot be calculated or assessed in a fixed amount.
2. Whereas compensation in criminal law has only costs or costs that have been incurred or costs incurred by the victim. This means that the immaterial is not included.

5. CONCLUSIONS

1). The development of justice in absentia in the justice system in Indonesia, Justice in absentia which even though it does not yet have a definite rule or there are no laws that clearly regulate the judiciary in absentia, but so far the judiciary in absentia has provided a satisfactory contribution to the justice system in Indonesia based on Act Number 8 of 1981 concerning the Criminal Procedure Code. The biggest contribution of the judiciary in absentia is mainly in eradicating and handling crimes that cross territorial territories.
2). The impact of the judiciary in absentia, the good performance of the implementation of the judiciary in absentia turned out to have more positive effects than negative impacts. As the
best outcome of the implementation of the judiciary in absentia is to narrow the possibility of perpetrators of crimes fleeing or escaping from the law.

As explained earlier that the judiciary in absentia is quite influential for the justice system in Indonesia, but there are no fixed rules regarding the judiciary in absentia or the absence of laws that clearly regulate it, so very serious and special attention is needed to the problem. In the case of justice in absentia the implementation is so serious because at the time the judiciary in absentia took place it was very vulnerable to interventions carried out by the authorities as well as those who possessed power, and also the judiciary in absentia had such an impact big from sharing aspects, it is necessary for appropriate handling by law enforcement officers who have good morality and uphold justice for all segments of society.

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7. REFERENCE