



## Due Process of Law as Part of Political Law Enforcement

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### **Abstract**

Criminal Law Renewal is an effort to create legal conditions that adapt to the needs of society for the criminal law itself. The renewal of criminal law itself is a reconstruction of existing legal rules and then a new legal rule is formed. Its main objective is to adjust to the dynamic social development of society so that criminal law in tackling crime is required to progress in accordance with the real situation. Demands for reform of criminal law are not solely formed based on certain interests, but reform of criminal law is also required to pay attention to the aspects that support it. Due process of law is one of the principles adhered to in the criminal law system. Due process of law exists to guarantee individual independence and is a form of upholding human rights. Criminal law with due process of law is an inseparable unit.

**Keywords:** *Criminal Law; Criminal Law Renewal; Due Process of Law*

### **Introduction**

Criminal law as a series of rules or norms within the criminal sphere is a guide to its walking laws. The process within the scope of criminal law occurs with the intention of creating justice for all concerned (Michael Barama 2016). The whole rule in the corridor of criminal law is referred to as a criminal system that then divides back into materiel penal law, formal criminal law, and penal law. All three are one entity that cannot stand alone because it is a continuous circuit<sup>1</sup>.

The politics of criminal law can be defined as criminal law policy or can also be referred to as criminal law renewal. Politics of criminal law is widely defined as an effort to implement legislation (criminal law) based on a given situation in real and sustainable times. This would mean that the practice of criminal law politics was a state effort to formulate and implement a series of formulations that would

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<sup>1</sup> Barda Nawawi, *Kebijakan Formulasi, Ketentuan Pidana Dalam Peraturan Perundang-Undangan* (Semarang: Pustaka Magister, 2012).

be fair to current and future criminal proceedings. According to marc ancel, criminal law politics is one of the arts aimed at giving directives that not only apply to the lawmakers but also to the courts as executioners of the legislation and judicial rulings. In a nuttier way than the above explanation is that criminal law politics is a series of attempts to eradicate crime through the making of the penal code itself<sup>2</sup>.

The main purpose of the establishment of a set of rules of the law was to protect the interests of people's lives. Criminal laws were thus also established with the primary purpose of protecting public interests and providing protection and justice to all societies. The politics of criminal law that live in a society because it serves to protect people, and then it is also required to coexist with social development in the community. In other words, the whole rule of law is no exception to criminal political law required to be able to adjust the social conditions of society, in other words to be able to keep up with the need for society itself<sup>3</sup>.

The law was required not to act solely. In this case it is not because the law is the highest guide and then set aside other things, but the law also has a penalty for anyone breaking them (Nurhayati 2020). So it is with the criminal law that it is not just a person who thinks he has committed a crime and then disposes of his rights as a free individual. Criminal law held the principle of due process of law stipulated that even if criminal law was intended to tackle a crime it did not mean that it eliminated the presumed innocence of the individual. This harmonizes with the purpose of the law's creation itself as a means to protect the rights and justice of society<sup>4</sup>.

Criminal law established as a means to address crime with legal media is a form that criminal law as a force of crime control growing in society. Gene kassebaum says that criminal law is a relic abandoned by human civilization to its traces of past atrocities and crimes that should then be studied and avoided as their present and future origins. From the standpoint of the gene kassebaum experience, it is a punishment that results in suffering for the perpetrator so that man has no chance of committing the same atrocity in the present and future. Cherif bassiouni made a deal with gene kassebaum that a criminal law was a punishment for his abuser. This is said to be so because criminal law in the past had no specific consideration as to the punishment to be meted out to the perpetrator. The renewed criminal law movement in continental Europe and England is a movement upon the reactions of those criminal laws, upon which criminal law renewal focuses on a humanistic reaction to the atrocities of the criminal punishment itself.

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<sup>2</sup> Maroni, *Pengantar Politik Hukum Pidana* (Lampung: CV Anugerah Utama Raharja, 2016).

<sup>3</sup> E D I Ribut Harwanto, *Politik Hukum Pidana* (Jakarta: Sai Wawai, 2019).

<sup>4</sup> Beni Kharisma dkk Arfani, Khairul Fahmi, "Penegakan Hukum Sesuai Prinsip Peradilan Yang Berkepastian , Adil Dan Manusiawi : Studi Pemantauan Proses Penegakan Hukum Tahun 2020," *Riau Law Jurnal* 6, no. 1 (2022): 48–74.

<sup>5</sup> Muladi dan Barda Nawawi, *Teori-Teori Dan Kebijakan Pidana* (Bandung: Alumni Bandung, 1984).

### ***Formulation of the Problem***

1. How does the political density of criminal law on criminal law reform and the application of due process of law suggest that a reform of criminal law should also be concerned with the principle of due process of law?
2. What about the due process of law as part of criminal law enforcement?

### ***Research Methods***

The method used in the study is the normative-judicial approach. The normatitic juridical approach is the approach made based on the main legal material by studying the theories, concepts, principles of law and the regulations of legislation related to the study. It is also known as the approach to literature, that is, by studying books, regulations of legislation and other documents relating to the study.

### ***Result and Discussion***

#### **1. The Political Understanding of Criminal Law**

Criminal law politics is also referred to as criminal law renewal. The sense of renewal in the English lexicon may be translated as a deed or a way to advance, the sense of renew and then reflect

- a. The Act of Becoming New,
- b. Recurrence or Action of Starting Something Over,
- c. Action Done with Something New.

Reading the understanding of these three meanings by combining the three data drawn together by threads that the renewal of criminal or political law of criminal law was an attempt or action made with new things. The political understanding of criminal law was then expanded and interpreted from several other sciences. In a legal political standpoint, criminal law politics is an attempt to establish good rules according to the need for a particular condition. It can also be defined as a result of state policy through state tools to enforce rules that can be used in society later on to achieve a common goal.

The Sudarto then defines the politics of criminal law in contrast to what has been described above. According to the sudarto, the politics of criminal law are an attempt to achieve the purpose of previous legislation to achieve the most good and maximum results without eliminating the terms of justice. On another occasion, sudarto said that practicing criminal law politics meant making an effort to bring about the proper implementation of criminal penal regulations<sup>6</sup>.

In foreign languages, criminal law politics has been defined as a penal policy, a criminal policy or strafrechtpolitiek. Here's some sense of political criminal law according to the expert<sup>7</sup>:

- a. According to marc ancel, a penal policy is a penal school of legal knowledge as well as an art in which the purpose is to place positive laws to be better designed which will be used not only as guidance from the lawmaker himself but also to the whole device of the organizer or administration of the judicial ruling.

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<sup>6</sup> Sudarto, *Hukum Pidana Dan Perkembangan Masyarakat: Kajian Terhadap Pembaharuan Hukum Pidana* (Bandung: Sinar Baru, 1983).

<sup>7</sup> Maroni, *Pengantar Politik Hukum Pidana*.

- b. According to Mulder, Strafrechtspolitik is the main reference to see how far the criminal code has been renewed, then what efforts can be made in
- c. According to Soerjono Soekanto, generally political criminal law is an act to see the values embodied in a particular rule and its application efforts in society.

In some such definitions that the essence of what is meant by the politics of criminal law is a rational or deliberate act to systemize the reactions that arise in social life toward a crime. Politics of criminal law aside from those defined as penal policy, criminal policy or strafrechtspolitik can also be maximized as criminal politics<sup>8</sup>. The politics of crime itself is an attempt to deal with a crime. As is known, while the politics of criminal law have been attempted on penal (penal law) and non-penal (without criminal law), the mention of criminal politics as another in the political inclusion of criminal law has been part of both<sup>9</sup>.

Political explanations of criminal law are more detailed through an important step in shaping, this is closely linked to formulations contained within a rule, the application stages of various established rules, and the execution stages that allow a stage with another to have an interrelated continuity. Through these three stages, the law through the policy of the authorities to form a law policy that is defined to apply to society, so that the formulation not only USES as a jurisdictional normative measure, but also USES a sociological jurisdictional approach to review the extent that a legal product is acceptable and administered to the regulatory designers, Decision-makers (courts) and their executioners in society remember that the main purpose for the establishment of a rule is in the lives of many.

Vthus, the renewal of criminal law is a logical and acted concept in which a rule can be done far better than the previous one at the time as a guide to rules in society. This is necessary in view of the dynamic and growing of social life, just as criminal law requires renewal in formation and application. According to Gustav Radbruch, updating criminal law doesn't mean improving criminal law, but updating it into a more expedient measure. According to Sudarto's notes, criminal law reform is specifically his criminal law saying that what the current reform of criminal law is not entirely a law reform or a complete renewal. He said that due to the upkeep of criminal law, there must be a thorough aspect of material. criminal law<sup>10</sup>.

In practice on the social life of people, criminal law is passed not only on those who make mistakes but on actions when such action is something that cannot be overcome except by criminal law. In other words, that criminal law is the ultimate medium used to control in society. The update on this control tool (criminal law) in society, as well as a container for treating new crimes (criminal law) as far as these ACTS are organized and categorized as crimes, is a consequence of the inherent legal principle that an act will be considered a crime or a crime when set in the rules. This prompted criminal law to continue renewed efforts to keep up with developments in society<sup>11</sup>.

Criminal laws that are used as tools to tackle crime then also form a formulation to address crime by not using the criminal means themselves (non law). Creating formulations on criminal management using formulations outside of penal code is a form of improving public welfare. Such as policy formation in health, education and so on. Police-building using non-criminal formulations enables the completion of

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<sup>8</sup> Arista Candra Irawatu, "Politik Hukum Dalam Pembaharuan Hukum Pidana (Ruu Kuhp Asas Legalitas) Arista," *Adil Indonesia Jurnal* 2, no. 1 (2019): 1–12.

<sup>9</sup> Sahhat Marulli, "kebijakan kriminal dalam penegakan hukum untuk mewujudkan keadilan dalam perspektif hak asasi manusia," *Res Nullius Law Journal* Volume 1 N, no. 1 (2019): 91–116, <https://doi.org/10.5749/j.ctt1pwt7kj.6>.

<sup>10</sup> Alvi Syahrin, "penerapan prinsip keadilan restoratif dalam sistem peradilan pidana terpadu (the implementation of restorative justice principles in integrated criminal justice system)," *Majalah Hukum Nasional* 48, no. 1 (2018): 97–114, <https://doi.org/10.33331/mhn.v48i1.114>.

<sup>11</sup> Febriyanti Silaen dan Siregar and Amry Syawal, "hubungan kebijakan kriminal dengan kebijakan hukum pidana," *Darma Agung* 28, no. April 2020 (2020): 8–16.

a particular action using the rules of the law. When a measure is dealt with a criminal law policy it will be permanently dealt with a set of criminal laws. Theoretically, the following steps to follow up a crime using criminal law:

- 1) The degree of criminal enforcement carried out by lawmakers is or may be said to be a stage of formulation;
- 2) The giving stage of the established rule;
- 3) The execution stage or implementation of the rules made.

The setting up of the penal code was the first step in what was considered to have been a violation of criminal rule, the giving of the penal code being called criminal in abstracto, while in the legislation and enforcement phase it was concrete penal giving. These three are an indivisible entity and a unified mechanism interrelated to each other. Thus, at the first stage of criminal enforcement (criminal in abstracto) was a strategic point in conforming to the new rules of the law (reform of criminal law) by adjusting needs in society and by observing the rules's strategy in hopes of creating a criminal goal that was basically just<sup>12</sup>.

Strategic formulation stages for creating various policies provide strategic positions for criminal law politics in society. It means that the opportunity for the perpetrators to form the rule of criminal law has a greater opportunity to formulate new rules that are thought to be better at spotting only society. This corresponds with the purpose of the political birth of criminal law in which the political of criminal law itself is a endeavour to replace the rule of criminal law with a new criminal law that better follow the poverty in society. Criminal law renewal as well as a part of criminal politics is a common sense, is to deal with crime.

The agreement of criminal law with social law and the necessity of society can be seen from the development of the Indonesian state. Indonesia has undergone many major changes in its national life, from the beginning of changes in politics, health, education, social spheres that are conscious that such changes are being made to create sustainable national development. In the process of development, too, it is possible to miss out on the national development development as far as crime is concerned. Thus, the presence of criminal law as crime control came as a deterrent<sup>13</sup>.

The presence of criminal law in society is an integral part that has been structured as one of the planning in national development. Prevention and countermeasures are included in the controlling of crime that should also be noticed by the rulers in the establishment of legislation. Rulers in his policies in shaping a product of rules then syncing the rule to become a product of legislative and corresponding with other functions in society. It can thus be said that criminal law politics is part of social social politics in society. Therefore, the implementation of criminal law renewal should fit social elements in society due to the long-term interests of society<sup>14</sup>.

According to *barda nawawi*, the political renewal of criminal law could be implemented by planning a renewal of material criminal law, by preparing a new criminal code, and then by conducting assessments and research and considerations to see how far the concept of the new law would present difficulties when considered by the law of the program. Another study that should be done in updating criminal law instead of creating new criminal concepts and reviewing my good use of cell phones with

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<sup>12</sup> Sudarto, *Hukum Pidana Dan Perkembangan Masyarakat:Kajian Terhadap Pembaharuan Hukum Pidana* (Bandung: Sinar Baru, 1983).

<sup>13</sup> Brian Septiadi Daud and Awaluddin Awaluddin, "Aspek Religius Dalam Pembaharuan Hukum Pidana Melalui Politik Hukum Nasional," *Journal of Judicial Review* 23, no. 1 (2021): 27, <https://doi.org/10.37253/jjr.v23i1.4334>.

<sup>14</sup> Rumelda Silalahi, "KAJIAN HUKUM ATAS PERNYELESAIAN PERSELISIHAN HUBUNGAN INDUSTRIAL SECARA KONSILIASI," *Jurnal Dara Agung* XXVII (2019): 1000–1011.

hap is to see how far the criminal code that until now remains valid requires an evaluation of the new criminal concept. Thus, the establishment of criminal law renewal has not only effectively replaced the rule of old law into a new criminal law, but it is also supported by research and the necessity of the rule of the law with each other to do away with it<sup>15</sup>.

Reform of criminal law not only by inventing new concepts and ideas on the penal code, it must also be supported by able law-enforcement personnel. It means that in the wake of criminal law renewal, the concept of civil personnel must also follow the renewal of criminal law itself to bring about harmony. Decentralization of law enforcement of law enforcement, a legal perspective and a Pancasila incorporation is the first capital and will establish a harmony between the rule of criminal law that has been through renewal with the execution of the law by its own citizens.

## 2. Understanding Due Process of Law

Due process of law in the scope of criminal law has meant a series of highly structured procedures. This serves as a precedent for law-enforcement officials to act and give a particular decision to consider elements of the due process of law. It is therefore expected that the application of principles in the due process of law can create a humane, criminal judicial state and uphold human rights. The adoption of the principle of due process of law into the system of criminal justice of Indonesia has, of course, been subject to the ideal of Indonesia's "law state," which upholds true rule of law. Thus the sense that a person ACTS because he is governed by the law is not governed by persons or superiors. Such insight that one ACTS according to the law not because of the commands of others or superior is expected to minimize the arbitrary ACTS of certain ones<sup>16</sup>. The central concept of the due process of law is to think that there is nothing higher than the rule of the law itself. In the same way as criminal crimes, there is nothing higher than the rule of criminal law itself. Therefore, the due process of law is not permitted for any violation of the rule of law, including the grounds for enforcing the law itself. This is reflected in the rule that no one can be held as a witness if he does not want to testify, even a person suspected of committing a crime has the right to not give his testimony if he does not want and is allowed to be represented by his legal advisor<sup>17</sup>.

An examination of the person believed to have committed a particular crime was committed to prove whether the individual was then guilty of the crime he or she was accused of. Such proving would obviously require a series of processes and rules of its own to achieve the desired results<sup>18</sup>. In practice there were two system models to prove whether a person was committed to the crime he thought was the first crime control model. It focuses that all criminal ACTS must be prosecuted and handed down quickly to ensure a conducive public order<sup>19</sup>. The main principle of the CCM is high efficiency, so in practice the whole series is done quickly and must be completed as soon as possible and there is little resistance to any interference<sup>20</sup>. As for the implication that police and prosecutors as executors of the rule of criminal law should work as fast and as possible to solve the case even if it should violate and sacrifice human rights. Nevertheless, the CCM model has a weakness that the danger of being wrongly suspected or wrongly charged because of the lax and rushed process.

<sup>15</sup> Barda Nawawi, *Beberapa Permasalahan Hukum Acara Pidana Dalam Mengantisipasi Berlakunya Konsep KUHP Baru*. (Semarang: Universitas Diponegoro, 1993).

<sup>16</sup> Victor Hiltner Martin Redish, "Adversary Democratic Due Process," *northwestern university pritzker school of law law & economic series* Volume 2 N, no. 4 (2022).

<sup>17</sup> Fernando, "Due Process of Law Dalam Penanggulangan Tindak Pidana Di Indonesia."

<sup>18</sup> trias saputra dan jatarda hutagalung, "pentingnya surat pemberitahuan dimulainya penyidikan ( spdp ) bagi para pihak demi terciptanya due proses of law the importance of the letter of notification of the commencement of investigation ( spdp ) for the parties for the creation of due processes O," *Jurnal Iblam Law* 2, no. 02 (2022): 1–16.

<sup>19</sup> Darmadi Djufri and Enni Merita, "perlindungan hak tersangka/terdakwa/teroris/medalamsistem peradilanpidanaindonesiadalam perspektif pelaku," *Civitas Akademika Sekolah Tinggi Ilmu Hukum Sumpah Pemuda* 27 nomor 2, no. 2 (2021): 1–23.

<sup>20</sup> Febby Mutiara Nelson, "Due Process Model Dan Restorative Justice Di Indonesia," *Jurnal Hukum Pidana & Kriminologi* 1, no. 1 (2020): 92–112.

Second is the due process of law showing up this principle is an action reaction to the crime control model. On the principle of due process of law focuses on the appropriation of individual rights by imposing limits on arbitrary behavior that is likely to occur during the proven process of the crime. Due process of law itself adheres to the general principle of innocence in which a person is presumed to have committed a particular criminal to remain likely to be innocent, and as long as action cannot be found guilty, it is appropriate that the person's rights as an independent individual be maintained and upheld<sup>21</sup>. On the due process of law's rights are held firmly so that divine arbitrariness can be overridden and controlled by human rights and not only focus on the speed of proving a person guilty or unjust<sup>22</sup>.

The crime control model (CCM) which adheres to the principle of presumption of behavior suggests that a person who believes that he committed a particular crime is entirely possible. This assumption would then eliminate possible innocence as the individual right of the perpetrator. It is not wrong that CCM emphasis is placed on the completion of a case effectively and swiftly. On the due process of law or due process model (DPM), the preconceived principle of innocence on a person's part when accused of committing a crime is one that should be firmly held, thus achieving the freedom of each individual.

Presumption of innocence requires the development of a mechanism of inquiry into a particular case by looking for objective facts in it. At the principle of due process of law when a person is accused or convicted of a particular crime, he or she has the right to be heard openly in his or her defense and defense as a form of objection and denial of any supposed objection. So the primary objective is, not to find the perpetrators of crime as soon as possible, but how evidentiary in a case of crime and the prosecution that matches the act. The primary objective is to avoid the risk of misconduct and misconduct

The two models between the crime control model (CCM) and the due process of law or due process (DPM) are not an absolute state that exists in the life of law enforcement as sentient, but as part of the value that emerges in the criminal justice system. The good that the principle crime control model (CCM) is incorporated into the rules of criminal law, as well as the due process of law or due process model (DPM), the good that therein will then be collaborated with the law of criminal proceedings to establish a continuous entity. As is the due process of law, a person is allowed to have an attorney present to defend and deny any criminal offense while still on the inspection stage. A salient characteristic of the due process of law principle is that it is possible to eliminate abuses and violence by officials in regard to a person who is thought to be a criminal, and uphold the individual's freedom to fight for the truth before the court<sup>23</sup>. The primary is a systemized process in which mistakes, errors, and cheating are minimized in the process itself. Thus, when errors and cheating are minimized, ideals are attained in public justice<sup>24</sup>. Law enforcement focuses on the facts that take place in the field and thus can inflict harm on a person's release from a court requirement, omit mere errors and assumptions so that in the process law enforcement can lead an offender to admit his guilt by objective fact. Placing the individual in a series of judicial systems and limiting the arbitrariness of officials gives the idea that equality before the law is above all others because it upholds the decency and benefits of the penal punishment itself. It also eliminates the view that even the state cannot take away freedom from human rights<sup>25</sup>.

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<sup>21</sup> Noer Yasin, "The Authority Rationalization Philosophy Of The Indonesia Competition Commission : The Due Process of Law and Maqashid Sharia Perspectives" 13, no. 1 (2022): 63–89, <https://doi.org/10.18860/j.v13i1.15873>.

<sup>22</sup> Sidik Sumaryo, *Kapita Selektia Peradilan Pidana* (Malang: Universitas Muhammadiyah, 2004).

<sup>23</sup> Endang Susanti, "Kebijakan Hukum Pidana Jangka Waktu Proses Penyidikan Dalam Sistem Peradilan Pidana Di Indonesia," *Jurnal Ilmu Hukum* 10 (2021): 284–96.

<sup>24</sup> Akhmad Zubairy, "Reka Ulang Sebagai Alat Bukti Surat Oleh Penuntut Umum Dalam Perkara Pidana Berdasarkan Prinsip Due Process Of Law," *Jurnal Penegakan Hukum Indonesia (JPHI)* 2, no. 2 (2021): 270–88.

<sup>25</sup> I Gusti Ayu Made Yustina, "Alternatif Penegakan Hukum Pidana Melalui Musyawarah Mufakat Dalam Sistem Peradilan Pidana Indonesia," *Acta Comitatus* 4, no. 3 (2019): 397, <https://doi.org/10.24843/ac.2019.v04.i03.p05>.

### 3. Political Consideration of Criminal Law on Criminal Law Renewal and the Application of the Due Process of Law Is Attributed That a Criminal Law Renewal Should Also Be Due Process of Law)

There arose a compelling circumstance to the rule of criminal law doing renewal on each rule doubtless due to the need for a dynamic society of the rule of criminal law itself. The more dynamic social life of society, it also encourages the development of more and more complex motives of crime, with such a consideration it is appropriate to realize that the necessity of society's renewal of criminal law is a requirement for the national ideal of protecting an entire nation.

The need for criminal law to update every rule is said to be a growing reaction to the development of society. It is also connected with the dynamics of the international community, which, in turn, covers other aspects of modern science on crime, driving criminal laws to develop simultaneously. The main reason for the renewal of the national penal law is to be able to adapt not only to the social conditions of national society but also to consider international forms of crime, since it is not denied that crime or crime is always one step ahead of its own rule of law. Thus, criminal law reform must be compromised by society as a first step toward maximizing justice and protection against society<sup>26</sup>.

The development of international criminal law renewal is also one of the incentives to the renewal of national criminal law. At one of the forum of international discussion on the 4th United Nations congress carried out in 1970 on "crime prevention and treatment of the offender," it suggests that the motive of crime always develops faster than the rule itself. Changes occurred in the pattern of crime 25 years ago with a change of rules over the same period of time and a line in reverse. In other words, the rules governing the same crime are slower than the development of the criminal arrangement. In 1975 there was an evaluation as to how the court system tried a case of criminal action against modern society, resulting in that the rules applied in the court were far behind the actual crime in society. With such reasons it is only proper to consider the establishment of criminal law renewal into something that needs to be corrected and adjusted to create criminal law conditions that follow the growth of modern society. Beyond that is the political adaptability, sociological reasons and practical reasons that are continuous with one another<sup>27</sup>.

Political reasons are governed by the notion that an independent state has rules of law to obey and powers both nationally and internationally. Sociological reasons are valid reasons that a rule of law should reflect the legal culture of the nation. As for the practical reason behind the need for reform of criminal law is that a country once occupied will certainly adopt a portion of the laws that rule it, for practical reasons it is rightly said that a country needs renewal to discover the identity of its national law as the nation's identity<sup>28</sup>. These are just classic reasons for bringing about efforts to reform criminal law. The practical reason for these reasons is that colonial penal laws from decades ago must have stood at a high level with national ideals and the development of modern society.

According to the sudarto, the density of criminal law renewal was needed, at least because of the above reasons. As muladi has expressed, that an independent state is a state with its own rules of law so that the rule of law can serve as an identity for the country and take pride in its being able to carry out its own laws according to the needs of its national society. In the view of sudarto, using the former colonial law was a sign that the country had not been able to create a culture and national identity independently<sup>29</sup>.

<sup>26</sup> Muladi, *Analisis Tentang Bab I Buku I RUU KUHP Tentang Ruang Lingkup Berlakunya Ketentuan Peraturan Perundang-Undangan Pidana* (Bandung: Universitas Padjajaran, 2016).

<sup>27</sup> Irawatu, "Politik Hukum Dalam Pembaharuan Hukum Pidana (Ruu Kuhp Asas Legalitas) Arista."

<sup>28</sup> Muladi, *Analisis Tentang Bab I Buku I RUU KUHP Tentang Ruang Lingkup Berlakunya Ketentuan Peraturan Perundang-Undangan Pidana*.

<sup>29</sup> Yuhanin Zamrodah, *Politik Hukum Pidana Dalam Kebijakan Hukum Pidana LGBT*, vol. 15 no 2, 2016.

The renewed national criminal law with regard to the due process of law is one thing which cannot be separated. Implementing criminal law reform efforts is not only limited to renewing specific aspects of the rule but also called attention to how the law is then implemented in society. With the primary purpose of the law established to protect the interests of all peoples it should also be applied to the interests of the people themselves. Goldstein classifies the weaknesses of law enforcement into three forms, the first being the total performance of the law means that the law is executed as the rule of the written law reads. This is to avoid any corruption outside the written rules. Second, that the implementation of the law is limited by the technical rules embodied in the rule, such as the means and infrastructure and human resources therein are categorized within the rule itself. An example is roadblocks in bureaucratic and unavoidable administration. Third, actual law enforcement is daily law enforcement in which the force of the law is not at all able to do full law enforcement on the daily violation or perversions of society.

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Due process of law also applies to discretionary rules. While the rule of the law was discretionary, it was still necessary to walk according to the rules of the law rather than merely following orders of office and superior authority. The renewal of criminal law on the principle of due process of law which cannot be separated from one another, since the principle of the due process of law is a principle which resides entirely in the joints of the criminal law itself and cannot be released and adheres to a single sustainable entity, this includes the whole of the rule itself, the administration of the law, They are as well as those responsible for a specific crime

#### **4. Due Process of Law as Part of Political Law Enforcement**

The judicial execution of criminal law without dismissing the rights of an individual is the hope and ideal of the criminal law itself. Surely that the main purpose of the law is to fulfill the necessity of society's supremacy of national law<sup>30</sup>. In general, the due process of law/due process model is the legal system concerned with procedural application of appropriate legality or compliance to the rule of law. On the DPM system (due process of law), a principle of justice is proven with a judiciary system that passes through transparent procedures and without violence. It happened to be a form of striving for individual rights. As explained previously that on DPM principles, minimize the possibility of interference and arbitrariness of authorities that harm others in both pretrial and judicial proceedings. One goal is also to minimize errors in the use of criminal law itself so that the use of criminal law does not fail in reaching its destination.

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<sup>30</sup> Khilmatin Maulidah and Nyoman Serikat Putra Jaya, "Kebijakan Formulasi Asas Permaafan Hakim Dalam Upaya Pembaharuan Hukum Pidana Nasional," *Jurnal Pembangunan Hukum Indonesia* 1, no. 3 (2019): 281–93, <https://doi.org/10.14710/jphi.v1i3.281-293>.

Processes carried out in criminal law cannot be separated from the existence of the due process of law. Narrow down, criminal law can be termed in abstract terms a law that sanctifies the perpetrators of a crime. In an effort to prove that, by passing procedural procedural, it is subject to the rule of criminal law, to both the penal code and the penal code of criminal proceedings. Thus, hidden interests can be avoided. Whereas the due process of law itself is generally said to be a principle in which relevant parties referred to as proof of a crime have a chance to defend and retaliate against what they think or are accused of. Therefore, whether they use an old criminal law law or a new criminal law rule both should be careful about the principles of the due process of the law.

The emphasis on the exercise of the due process of law is not merely a formality, but to ensure that the criminal law goes in its corridors and does not remove the guilt from the law itself, and the creation of the purpose of the inquiry itself. So criminal law is not only a sanctive-giver or a suffering-giver, but it also keeps a close watch on the humanism in society itself. The giving of a just punishment was a punishment meted out to the degree of the crime itself by paying attention to the rule of the law. It means that correspondency between the formulation of the rule of the law itself, the perpetrators of the lawmaker, the executioners of the rule of the law, and the recipients of (the perpetrators) of the sanctions of the rule is inherent. It is said that the rule of the law itself grows and flourishes with the social development of society<sup>31</sup>.

## Conclusion

Criminal law provides a set of laws governing all forms of crime. Reform of criminal law was an effort to establish a new rule of law by considering the necessity of society by the rule of the law itself. Due process of law isa closely defined principle with criminal law, where it is held that upholding justice and the rights of an individual who is thought to be guilty of a crime. Due process of law with the renewal of criminal law is an integral unit, so that it establisses a rule of criminal law with regard to society's ignorance and a high regard for human rights.

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<sup>31</sup> Muryanti, *Sosiologi Hukum Dan Teori Efektivitas Hukum* (Yogyakarta: Manggar Media, 2020), <https://doi.org/10.31219/osf.io/u6yxz>.

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