



UDC 34

DEVELOPMENT OF RESTORATIVE JUSTICE VIEWED FROM THE PHILOSOPHY OF SCIENCE

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ABSTRACT

This writing aims to explain the history of philosophy of science, as well as explain the history of restorative justice, and analyze the development of philosophy of science towards restorative justice that develops in Indonesia. The presence of restorative justice is very important in the punishment system; of course in building this approach, scientific guidelines such as philosophy of science are needed. Philosophy of science is the basis for a science to be able to reflect on legal symptoms that arise in society. According to the author, it is important to know about the analysis of the philosophy of science towards restorative justice. The writing method used or the type of research conducted is a descriptive type of research using qualitative research methods. In addition, this writing also uses an analytical approach.

KEY WORDS

Restorative justice, philosophy of science, qualitative, punishment.

The development of science and culture today is very fast, another factor due to the population that continues to grow over time, as well as science and technology that every era experiences renewal. The presence of technology cannot be avoided because even though humans do need renewable technology to keep up with the times. However, keep in mind that when technology is developing, it must be accompanied by science. One of the sciences that cannot be abandoned is the philosophy of science, because basically the philosophy of science is often referred to as the science of science. Studying the philosophy of science is known by the existence of prerequisites, namely material objects and formal objects. The material object is the science itself while the formal object is the essence, substance, and essence of science.

Currently, there are various developments that use philosophy of science as a guide. Philosophy of science, as an academic discipline, examines the theoretical aspects of science and seeks to assess its relevance in addressing practical situations that require the incorporation of philosophical values. This is particularly important in the Indonesian context, where cultural traditions, morals, and human values must be developed with the values of philosophy of science.

The presence of restorative justice or known as RJ is certainly based on the development of the philosophy of science itself, a change in the paradigm of punishment which was originally retributive, namely emphasizing punishment on the perpetrator, while currently RJ is the opposite of retributive justice, where RJ emphasizes restoring the relationship between both victims and perpetrators while still exercising the rights of victims. The Restorative Justice Settlement process can be applied to minor crimes, which emphasizes balance, harmony, harmony, and kinship. However, currently law enforcers, especially prosecutors and police, still do not have the same view on how to handle Restorative Justice Cases. For this reason, the problems that the author will explore are the history of philosophy of science, the history of restorative justice, and the view of philosophy of science towards restorative justice.

METHODS OF RESEARCH

The type of research conducted is descriptive research using qualitative research methods. This study falls into the category of normative legal research, which is specifically



conducted to identify legal regulations, principles, and doctrines in order to solve legal problems and obtain arguments, theories, or concepts. The methodology used includes statutory and conceptual approaches. The data for this research was obtained from secondary sources including primary, secondary, and tertiary legal materials. Data analysis uses a qualitative descriptive approach, which provides a thorough explanation of the legal events under study and utilizes legal theories, concepts, or principles, as well as positive law, which are expressed in a scientifically accessible manner. In addition, the researcher also uses the approach: statute approach, conceptual approach, and analytical approach. The technique of searching for legal materials uses document study techniques, and the analysis of the study uses qualitative analysis.

RESULTS AND DISCUSSION

Philosophy is a science that originated in Ancient Greece, philosophy is present because of the existence of knowledge from the West. However, in the 17th century science experienced a split, where science and philosophy stood alone. Thus it can be concluded that before the split of the 17th century science and philosophy were a unity. Van Peursen confirms this, saying that because science has long been a part of philosophy, the understanding of science depends on the philosophy of science adopted.

Along with the times, science has also developed, but it is important to realize that the ancient Greek philosophers have designed what the philosophy of science is and how science should be used. According to Robert Merton, there are rules of science, namely universalism, communalism, disinterestedness and directed skepticism.

Science is a discipline that includes a series of logical and cognitive activities carried out by humans. These activities involve the use of a variety of methods, procedures and steps to systematically gather knowledge about natural, social or individual phenomena. The ultimate goals of these endeavors include achieving truth, understanding, explanation, and practical implementation.

In recent years, the field of science has experienced significant progress, including the emergence of new disciplines which then lead to the formation of sub-disciplines and highly specialized fields of study. This phenomenon is in line with Van Peursen's (1985) statement that science can be viewed as a cohesive and interconnected framework of expression, the essence of which can be understood.

Moving on to the Middle Ages where in this period, philosophical thoughts were often influenced by theology. In this era, theology and science were always integrated in order to harmonize with the thoughts of philosopher Thomas Aquinas who wanted to harmonize the teachings of the Church with Aristotelian thought. During the Middle Ages, a leading figure in astronomy also emerged in Poland. He was N. Copernicus, who introduced the concept of heliocentrism, which states that the sun is the center point of celestial movement. However, this groundbreaking theory was opposed by Church authorities who adhered to the geocentric theory proposed by Ptolemy, which positioned the Earth as the center of celestial circulation. As a result, N. Copernicus was sentenced to life imprisonment by the Church authorities.

In the age of enlightenment the scientific revolution began in this period with advances by scientists such as Copernicus, Galileo, and Newton. Philosophy began to focus on methods and experiments. Furthermore, entering the modern age of the 18th century where philosophers of this era are referred to as empiricists where the emphasis of science is due to human senses. The great empiricists include John Locke, G. Berkeley, D. Hume. J.J. Rousseau and Immanuel Kant.

One of the famous figures of the modern era is Immanuel Kant, a philosopher known for his philosophical flow, known as "Kantian thought" or "Kantian ethics," which greatly influenced modern legal and ethical views, with the flow of rational natural law. The name of the legal theory initiated by Immanuel Kant is Kantian legal theory or Kantian ethical theory, where this theory is often associated with the principle of universality and respect for human dignity as an end in itself, universality here can be interpreted as a just law, upholding human



rights, and legal responsibility. But in this case, the theoretical interpretation of Kant's views cannot clearly explain all aspects of contemporary law.

The theory of law and ethics initiated by Kant in his work entitled "Critique of Practical Reason" (1778), which is mentioned in the Basics of Moral Metaphysics section, Kant explains the concept of "obligation" or "categorical imperative" which reads that ethical actions are actions based on universal moral obligations that can be applied to each individual, in law it can be said as an emphasis on justice, obligation, and the principle of equality of each individual in the legal system. In addition, in his work entitled "Metaphysics of Morals" (1797) where Kant distinguishes between natural law and the law of obligation or customary law, in this concept Kant states that natural law is only based on moral principles that can only be accessed by human reason in general, while the law of obligation includes ethical principles that are specific and related to certain actions based on moral obligations.

Speaking of law, Immanuel Kant has his own view of the meaning of the law itself, according to Kant the law is the overall condition of the free will of people to be able to adjust to the free will of others, by following the rules of freedom. In other words, the law applies to everyone without exception. This shows that Immanuel Kant shows how important the law is in front of everyone, everyone has an obligation to submit to the law. The existence of a relationship between law and obligation is a logical consequence of this understanding. If a person fulfills his life obligations, it is the same as fulfilling the law itself.

Entering the 19th century philosopher Auguste Comte viewed the philosophy of science as a way of looking at the world. According to him, society will continue to develop if it goes through three stages, namely theological, metaphysical, and positivism stages. In addition, there is also a school of philosophical criticism by Immanuel Kant. Kant aimed to reconcile the two different approaches by stating that both have some truths and fallacies. While it is true that sensory perception plays an important role in our understanding of the external world, Kant argued that our cognitive abilities play an important role in shaping our perceptions. Humans have inherent factors that influence their conception of reality. Kant posited two important components that contribute to human knowledge: a priori conditions of space and time, which remain inaccessible until perceived by the senses, and internal conditions within the individual, which are subject to immutable laws of causality.

The emergence of the Vienna Circle, a movement in philosophy that aimed to make philosophy scientific and get rid of ideas that could not be proven scientifically, shows the development of scientific philosophy. The modern era has anthropocentric philosophical thinking, where in this era philosophers make humans the center of philosophical analysis.

In the middle 1960s of the 20th century with his work entitled "The Structure of Scientific Revolutions" by Thomas Kuhn gave ideas about scientific paradigms and scientific development, hoping that his work would influence how science can be dynamic. Kuhn argued that no paradigm is more correct than another, each paradigm has its own functions and uses.

The 20th century contemporary era or commonly referred to as logocentric, which means that text is the central theme of philosophers' discourse. In this era, philosophy of science is more dominant as thinking about language, this is related to the task of philosophy of science which not only creates opinions about specific things but also has to solve problems that arise due to ignorance of logical language.

To find alternative activities in philosophy, philosophers Russel and Wittgenstein used ontological beliefs in the method of language analysis. The work of philosophy is not just words, but also an attempt to explain words. Philosophy is an activity, not just a doctrine. The logical explanation of thought is the main goal of philosophy, and most philosophical works contain explanations.

During this period, various new traditions in philosophy emerged, some of which are neo-thomism, neokantianism, neo-marxism, and neo-positivism, among others. In addition, there are also schools of philosophy that are different from other schools such as phenomenology, existentialism, pragmatism, structuralism, and postmodernism.

Thus it can be seen that philosophy and science as a whole continue to develop over time. The philosophy of science emerged as a natural progression from the philosophy of



knowledge, as it deals with a more advanced form of knowledge known as scientific knowledge. Within the realm of philosophy, philosophy of science focuses specifically on the study of science itself, including its processes and principles.

Restorative justice is a process in which all people involved in a particular crime work together to resolve the issue of how to deal with the future consequences of the crime.

The term Restorative Justice, hereinafter referred to as RJ, was first introduced by Alber Eglash under the name Restorative Justice. According to him, RJ is an alternative restitutive approach to retributive and rehabilitative approaches. This concept is a renewal of human thought and the development of science based on the judicial traditions of Greek, Roman and Arab civilizations in resolving problems in their countries.

In his work entitled "Understanding Victims and Restorative Justice" Dignan explains that the term RJ justice began when Albert distinguished three types of criminal justice, namely retributive, distributive and restorative. According to Eglash, retributive justice targets punishment of perpetrators for their crimes, according to him, distributive justice aims to rehabilitate criminals, while restorative justice aims to make reparations for both victims and perpetrators with the aim of peace.

This restorative justice was motivated by public dissatisfaction with the criminal justice system in the mid-1970s which still used a retributive approach, where this approach was deemed not to provide benefits to victims, perpetrators or society. At that time, activist groups often held discussions and carried out reforms regarding their criminal justice systems in North America and Europe. Initially, restorative justice was only shown to perpetrators of juvenile crimes, but as this justice progressed, it turned out to have a good response from victims, perpetrators and the community. So this approach continues to spread to Europe and North America.

As time went by in 1974, Mark Yantzi, who at that time was a probation officer, analyzed whether this approach was applied to two teenagers who committed acts of vandalism, whether they got a good response, and in the end, this approach was beneficial for both the perpetrator and the victim. In the end, this restorative approach was disseminated to cover all existing communities. There was a family group conference that used a restorative approach in New Zealand in 1999 regarding the concerns of the indigenous Maori population regarding the consequences of a court decision to remove children from their homes.

Then in 1991, this restorative approach was adapted by a police officer named Terry O'Connell, where this approach was used to resolve criminal acts without the need for court proceedings. In 1994, Australian educator Marg Thorsborne introduced this new restorative-inspired program, provided by the Community Service Foundation and Boxmont Academy.

In the last twenty years, the idea of restorative justice has developed rapidly in several countries in Europe and the Pacific such as Australia, Canada, England, Wales, New Zealand, and several other countries. The United States is also experiencing progress in restorative justice, because it often collaborates with other countries to implement repressive punishment. Restorative justice has been implemented in Indonesia for a long time, but at that time it was known as customary or customary law.

Restorative justice, also known as "restorative justice", is a way of dealing with crime that focuses on healing the relationship between the perpetrator and the victim and healing the community affected by the crime. The retributive model of justice, on the other hand, emphasizes punishment as a form of retribution for wrongful actions. Restorative justice sees crime as a violation of social relationships, not just the law.

Philosophy of science is a special branch of philosophy that discusses the history of the development of science. Scientific methods, the ethical attitudes that scientists must develop generally contain goals such as initial, the philosophy of science served as a tool for evaluating scientific reasoning in order to foster an intelligent perspective among individuals towards scientific endeavors. It is very important for scientists to have a critical mindset towards their respective fields of study to prevent adopting a solipsistic point of view, which considers one's own opinion to be the only certain truth.



The philosophy of science provides a rational basis for scientific methodology. Every scientific method formulated must have logical coherence, making it easier to understand and apply universally. The level of acceptance and utilization of a scientific method is directly correlated with its validity. This discourse is related to the field of methodology, specifically the branch of science dedicated to investigating techniques for achieving truth.

The importance of the philosophy of science in human reasoning to build science is because the philosophy of science will investigate, explore and explore the nature of science as deeply, as far and as widely as possible. Thus, it can be concluded that the philosophy of science is the basis of all science, because the philosophy of science is philosophical research which aims to find answers to questions about what science really is. Thus, the philosophy of science plays a very important role in the development of all sciences. Of course, the philosophy of science really helps humans in many ways.

Looking from an ontological perspective, restorative justice firmly emphasizes that social reality is a combination of interactions between individuals. Crime here is defined as a disturbance of social balance, not just an act that violates the law.

In the restorative approach, the constructivism paradigm, namely negotiation, is an important part of the restorative process because constructions are compared and changed towards consensus. Even in situations where consensus cannot be achieved, negotiation between perpetrators and victims whose constructs are conflicting can prove fruitful, enlightening, and enhance the potential of the constructs. Negotiations always have a role to play. argue that knowledge comes from social interaction. In the context of restorative justice, this means recognizing that the effects of crime and punishment are social constructs that can be negotiated and changed through discussion between offenders, victims, and society as a whole.

The holism view of restorative justice provides the idea that the system of the universe, including its physical, chemical, biological, social, economic, mental-psychic and linguistic elements, must be understood as a whole, not as separate parts. In relation to restorative justice, it emphasizes the community's understanding that crime is a phenomenon that not only affects victims and perpetrators, but the community also influences this restorative justice.

Interdisciplinary science certainly has a connection with restorative justice, this science functions to better understand the reality in the field, with a restorative approach it is hoped that it can involve similar aspects for more effective restorative implementation. Apart from that, the qualitative method of philosophy of science is related to the implementation of this restorative process. The qualitative method of philosophy of science emphasizes individual experience and social context, as well as restorative justice, which requires listening to the personal experiences of both the victim and the perpetrator so that a resolution between the two parties can be achieved in a win-win manner solution.

Philosophy of science as a guide can provide a strong foundation for the integration of restorative justice into the legal system by understanding how to obtain and interpret philosophical knowledge and considering the complexity and nuances of social reality. The reflective, contextual and holistic approach of the philosophy of science is in line with the principles of restorative justice.

CONCLUSION

The world is currently experiencing very rapid developments in science and culture. This is caused by a population that continues to increase along with developments in technology and science. Even though humans need technology that is continuously updated to keep up with the times, technology is still necessary.

In the field of science, there has been great progress in recent years. These advances include the emergence of new disciplines, resulting in the formation of highly specialized subdisciplines and fields of study. This phenomenon is in line with the ideas of Van Peursen, who stated that the philosophy of science can be considered as an understandable and cohesive framework for expression.



As an advance in science, the presence of restorative justice is a reform of criminal law, a process in which all people involved in a particular criminal act work together to resolve the problem of how to deal with the future consequences of the criminal act.

By understanding how to obtain and interpret philosophical knowledge and considering the complexity and nuances of social reality, philosophy of science as a guide can provide a strong foundation for the integration of restorative justice into the legal system. The reflective, contextual and holistic approach of the philosophy of science is in line with the principles of restorative justice.

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