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MISCARRIAGE OF JUSTICE AND THE PARADOX OF JUDICIAL INDEPENDENCE: THE DOCTRINE OF JUDGE ACCOUNTABILITY IN THE CRIMINAL JUSTICE SYSTEM

Article	Abstract
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INTRODUCTION

Law enforcement is like two sides of the coin that are often seen from different lenses by society, on the one hand the law is a saviour for the benefited party, on the other hand the aggrieved party considers the law as a scary scourge. Laws that are supposed to be neutral for

every justice seeker or for every party in conflict, but in fact they are often discriminatory in favour of the powerful and powerful, even if they are not necessarily true. In the legal literature, this kind of conflict is known as miscarriage of justice, which is the occurrence of a situation where the legal goal of justice and legal certainty is not achieved where a person is sentenced for a crime that was not committed, despite the lack of sufficient evidence on the essential elements of a crime (Gumilang and Lamada 2020). A miscarriage of justice is a mistake that can be in the form of a conviction against a person who is actually innocent (wrongful conviction).

Miscarriage of justice in the context of language is interpreted as a failure to achieve justice, while in the legal context it is interpreted as the failure to achieve legal goals to achieve justice or the application of wrong justice by law enforcement institutions (Badan Pemeriksa Keuangan Republik Indonesia 2009). From a human rights perspective, errors in criminal judgments constitute a serious violation of the fundamental rights of individuals, in particular the right to personal liberty and the right to a fair trial. When a person is sentenced to a criminal conviction based on a wrong verdict, the state has essentially failed to carry out its obligation to provide effective legal protection to citizens. The issue of miscarriage of justice is an important concern in modern criminal law discourse, especially in relation to efforts to strengthen the accountability of the criminal justice system. This phenomenon not only causes losses to individuals who are victims of mistrials, but also has a wide impact on the legitimacy of the criminal justice system and public trust in the judiciary as a justice enforcement institution.

In the global context, various countries have begun to develop mechanisms to address judicial errors, such as the establishment of special institutions to review suspected criminal verdicts, the provision of compensation to victims of wrongful convictions, and the strengthening of supervision mechanisms for law enforcement officials. These developments show that judicial errors are no longer seen solely as technical issues in the judicial process, but as structural issues related to the accountability of the judiciary in ensuring substantive justice. However, in the Indonesian legal system, the discourse on miscarriage of justice is still relatively limited. Errors in criminal judgments are generally seen as part of the dynamics of the judicial process that can be corrected through legal remedy mechanisms, such as appeals, cassation, or review. The submission of legal remedies is considered a guarantee of protection of their human rights and realizes optimal law enforcement and in accordance with the values of justice (Simanjuntak and Debora 2024). This approach places judicial errors as a procedural issue that can be corrected through available judicial mechanisms. In many cases, errors in

criminal judgments can have very serious impacts on an individual's life, including loss of liberty, reputational damage, and prolonged social trauma.

The Indonesian legal system places judges in a very important position as the party who has the authority to decide criminal cases independently. The independence of judges is a fundamental principle in the rule of law that aims to ensure that the judicial process takes place free from the intervention of the executive and legislative powers. This principle is affirmed in various national legal instruments, including the 1945 Constitution of the Republic of Indonesia which states that judicial power is an independent power to administer the judiciary to uphold law and justice. Hakim in examining, adjudicating, and deciding a case is protected and given independent and free power by the state from various interventions from any party and in any form, as a guarantee of the impartiality of judges except for the law and justice for the implementation of the rule of law of the Republic of Indonesia (Fahmiron 2017). This provision reflects the importance of maintaining the independence of judges in carrying out judicial functions so that court decisions are not influenced by pressure from any party. In this context, the independence of judges is one of the main pillars of a democratic judicial system.

However, the protection of the independence of judges also raises its own problems when there is an error in a criminal decision. In judicial practice, judges are generally protected by the doctrine of judicial immunity, which is legal immunity that protects not only judges, but also other judicial apparatus from civil lawsuits or criminal charges arising in connection with actions they commit in their official judicial capacity (Kaban 2025). This doctrine aims to ensure that judges can carry out their duties without fear of possible lawsuits from parties who are dissatisfied with the court's decision.

Although the doctrine of judicial immunity has the noble purpose of protecting judicial independence, its application of the doctrine in absolute terms can also give rise to normative paradoxes. On the one hand, judges must be protected from external pressure in order to carry out judicial functions freely. But on the other hand, overly broad protections for judges can reduce judicial accountability when serious errors occur in criminal decisions. This paradox becomes even more complex when the error of the verdict results in violations of human rights. It is in this context that a debate arises about the limits of judges' accountability in the criminal justice system. Some parties argue that judges should not be held accountable for decisions taken in carrying out judicial functions, as this can threaten the independence of the judiciary. But on the other hand, there is a view that states that judges must still have a certain form of accountability, especially when there is a serious mistake that results in injustice for the party being tried.

In Indonesia, the accountability mechanism for judges is generally carried out through an ethical supervision system run by judicial supervisory institutions. This mechanism aims to ensure that judges carry out their duties in accordance with established ethical and professional standards. However, the supervision mechanism basically focuses more on ethical violations and discipline of judges, rather than on substantive accountability for errors in criminal decisions. Previous studies have shown that studies on judicial errors in the Indonesian legal system still focus more on procedural aspects, such as reforming the evidentiary system, improving the quality of investigations, or strengthening legal remedy mechanisms. These studies make an important contribution to improving the quality of the criminal justice process, but have not in-depth examined the issue of judges' accountability in cases of misjudgements. In addition, most research also still maintains the view that errors in criminal judgments are the failure of the justice system as a whole, not the responsibility of individual judges as the party who decides the case. This approach essentially places judges as part of the complex structure of the justice system, so that the error of verdicts cannot be imposed directly on judges as individuals. Although the approach has a solid foundation, the development of modern legal discourse suggests that judicial accountability is an important part of efforts to strengthen public trust in the justice system. In this context, there is a need to review the doctrine of judicial immunity and formulate a model of judicial accountability that is able to balance the principle of judicial independence and the demands of judicial accountability.

However, until now, legal studies that specifically discuss the reconstruction of the doctrine of judges' accountability in the context of miscarriage of justice are still very limited in the Indonesian legal literature. Most research places more emphasis on institutional or procedural aspects, while the conceptual dimension of the relationship between judicial independence and judicial accountability has not been explored in depth. Based on this background, this study seeks to examine in depth the relationship between the phenomenon of miscarriage of justice and the paradox of judicial independence in the Indonesian legal system. This research aims to reconstruct the doctrine of judge accountability in the criminal justice system by developing a conceptual framework that is able to balance the principle of judicial independence and the need for judicial accountability in dealing with criminal verdict errors. Thus, this research is expected to make a theoretical contribution to the development of legal science, especially in the study of the accountability of judicial institutions and the protection of human rights in the criminal justice system. Based on this description, the main problem that will be studied in this study is related to how the doctrine of judge accountability in the criminal justice system is constructed and how the reconstruction of the doctrine can be carried out to

overcome the paradox between judicial independence and judicial accountability in cases of miscarriage of justice.

METHODOLOGY

This research is normative legal research that focuses on the analysis of legal concepts, doctrines, and norms related to the accountability of judges in the criminal justice system, especially in the context of the phenomenon of miscarriage of justice and the paradox between judicial independence and judicial accountability. The approach used in this study includes a statute approach by examining various laws and regulations that regulate judicial power and the criminal justice system in Indonesia, a conceptual approach used to analyse theoretical concepts such as judicial immunity, judicial accountability, and miscarriage of justice in the perspective of legal doctrine. The legal materials used consist of primary legal materials in the form of the constitution, laws and regulations, and regulations related to judicial power and supervision of judges; Secondary legal materials in the form of books, scientific journal articles, and previous research relevant to the research topic; as well as tertiary legal materials such as legal dictionaries and legal encyclopaedias. All of these legal materials are analysed qualitatively prescriptively through legal interpretation methods, doctrinal analysis, and conceptual reconstruction in order to formulate a model of the doctrine of judicial accountability that is able to balance the principle of judicial independence with the demands of judicial accountability in the criminal justice system.

RESULTS OF RESEARCH AND DISCUSSION

1. The Concept of Miscarriage of Justice in the Criminal Justice System

The phenomenon of miscarriage of justice is one of the fundamental problems in the modern criminal justice system which shows the failure of the legal system in achieving its main goal, which is to uphold justice, legal certainty, and utility. In the context of criminal law, the term miscarriage of justice is generally used to describe a situation when a person is sentenced to a criminal sentence based on an erroneous court decision, either due to errors in the assessment of facts, errors in the application of the law, or the failure of the judicial system to ensure a fair trial. In the criminal law literature, miscarriage of justice is often associated with the concept of wrongful conviction, which is the punishment of a person who is actually innocent that occurs due to various factors, including errors in the investigation process, inaccurate use of evidence, pressure on witnesses, and errors in the judge's assessment of the evidence presented at trial. In many cases, this kind of error not only impacts unjustly punished

individuals, but also causes widespread social harm because it can undermine the legitimacy of the criminal justice system as an institution tasked with upholding justice.

The existence of the criminal justice system is basically intended to protect the rights of individuals while upholding social order. Therefore, errors in criminal judgments are a form of serious failure in the implementation of state functions in ensuring legal protection for citizens. As stated by Barda Nawawi Arief, the nature of the doctrine of criminal law is emphasized that criminal law essentially functions as a means of protecting the legal interests of citizens, not as a repressive instrument that actually puts the victim in a disadvantaged position (Muladi and Arif 2010). Thus, every form of error in criminal decisions must be seen as a problem that requires serious attention in the development of criminal law policies.

Errors in criminal judgments can basically occur at various stages in the criminal justice process. In many cases, such errors are often attributed to errors in the investigation or prosecution process. However, it is undeniable that judicial errors can also occur in the process of examining cases in court, especially in the stage of assessing evidence by judges. Judges have very broad authority in assessing evidence and determining whether a person is proven guilty or not in a criminal case. This authority is a consequence of the principle of independence of judges in carrying out their judicial functions. In practice, the judge's assessment of the evidence is not always free from the possibility of error. These errors can occur due to various factors, such as the limitation of information available at the trial, cognitive biases in the decision-making process, and social and political pressures that affect the judicial process. The evidentiary process in a criminal case is basically a complex assessment process, because the judge must assess the various evidence submitted by the parties and determine whether the evidence is sufficient to prove the defendant's guilt. The evidentiary process in the Indonesian criminal justice system gives the judge the freedom to draw and infer his conviction from the available evidence, but the conviction must be based on a conclusive conclusion (Gulo and Gulo 2024).

The complexity of the evidentiary process shows that errors in criminal judgments cannot be completely avoided in the criminal justice system. However, the existence of a mechanism to correct such wrongs is very important to ensure that the justice system can still guarantee justice for each individual who is tried. In the Indonesian legal system, the mechanism for correction of errors in criminal judgments is generally carried out through legal remedies such as appeals, cassation, and review. This mechanism is intended to provide an opportunity for parties aggrieved by court decisions to obtain a re-examination of the case they are facing. Although the legal remedy mechanism has an important role in correcting judicial errors, in

practice it is not always able to overcome all forms of errors that occur in the criminal justice process. In some cases, the error of the verdict is only revealed after the defendant has served a long sentence. This condition shows that the criminal justice system still has limitations in preventing the occurrence of miscarriage of justice.

Errors in criminal judgments can also have very serious repercussions for individuals who are victims of miscarriages of justice. Individuals who are unjustly punished not only lose their freedom, but also face social stigma that can permanently affect their personal life. In many cases, victims of wrongful convictions also suffer economic losses as well as prolonged psychological trauma. Therefore, errors in criminal judgments cannot be seen solely as technical issues in the judicial process, but must be understood as serious issues related to the protection of human rights.

From the perspective of modern criminal law, the issue of miscarriage of justice is getting more attention along with the increasing awareness of the importance of accountability in the criminal justice system. Countries have begun to develop specific mechanisms to identify and correct errors in criminal judgments, including the establishment of independent bodies tasked with reviewing allegedly erroneous court decisions. These developments show that the modern criminal justice system no longer views misconduct as inevitable, but as a problem that must be addressed through institutional reform and strengthening accountability mechanisms.

2. The Doctrine of Judicial Independence and Judicial Immunity

Judicial independence is one of the fundamental principles in the modern system of the state of law. This principle emphasizes that judicial power must be free from the intervention of other powers so that judges can decide cases objectively based on law and conscience. In the context of a constitutional democratic country, judicial independence has an important role in ensuring the upholding of the rule of law and the protection of human rights. The principle of judicial independence in Indonesia is affirmed in Article 24 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that judicial power is an independent power to administer the judiciary to uphold law and justice. This provision reflects that judge in carrying out their judicial functions must be free from interference from any party, both from the executive and legislative institutions. Independence is the main prerequisite for the creation of a fair and impartial judiciary.

Contextually, judicial independence is interpreted as all circumstances or conditions that support the inner attitude of judges who are independent and free to explore and then manifest their conscience about justice in a judicial process. Conceptually, judicial independence has several important dimensions that are important prerequisites for ensuring that judges can carry

out their duties professionally and objectively. Institutional independence is related to the freedom of the judiciary from the influence of other branches of power in the constitutional system, the individual independence of judges in relation to the freedom of judges to decide cases without pressure from outside parties, and internal independence related to the freedom of judges from the influence of the administrative hierarchy in the judiciary.

The independence of judges also has a close relationship with the principle of fair trial in the criminal justice system. The right to a fair trial is part of human rights guaranteed in various international and national legal instruments. Without the independence of judges, the judicial process cannot take place objectively and fairly, because court decisions have the potential to be influenced by political interests or social pressure, so the protection of judge independence is one of the main pillars in the modern justice system. Nevertheless, judicial independence cannot be understood as absolute freedom that has no limits. The independence of judges must remain within the framework of legal accountability so as not to cause abuse of authority in the judicial process. It is in this context that a debate arises about how to maintain a balance between the independence of judges and judicial accountability in the criminal justice system.

In judicial practice, the protection of the independence of judges is often realized through the doctrine of judicial immunity, which is a principle that gives immunity to judges from lawsuits for actions carried out in the exercise of their judicial functions. This doctrine developed in the Anglo-Saxon legal tradition and was later adopted in various modern legal systems as a mechanism of protection against the independence of judges. The main purpose of the doctrine of judicial immunity is to ensure that judges can decide cases freely without fear of possible lawsuits from parties who are dissatisfied with the court's decision. Without this kind of protection, judges have the potential to face pressure or legal threats from parties who feel aggrieved by the court's decision. In such conditions, the independence of the judge can be threatened because the judge may feel pressured to decide the case considering the risk of lawsuits that he may face.

In the Indonesian legal system, although the term judicial immunity is not explicitly mentioned in laws and regulations, this principle is basically reflected in various provisions that provide protection to judges in the exercise of their judicial functions, for example, the Law on Judicial Power affirms that judges cannot be prosecuted legally for decisions taken in the performance of their duties, unless proven to have committed a violation of the law serious such as corruption or abuse of office. The protection of judges through the doctrine of judicial immunity has an important function in maintaining the stability of the judicial system. With this protection, judges can carry out their duties professionally without worrying about facing

lawsuits from parties who are dissatisfied with the court's decision. However, the application of this doctrine in absolute terms can also raise serious problems in the context of judicial accountability.

3. Reconstruction of the Doctrine of Judges' Accountability in the Paradox of Judicial Independence in the Case of Miscarriage of Justice

Although judicial independence is a very important principle in the system of the state of law, the application of such principles in judicial practice often poses a paradox when it is associated with the phenomenon of miscarriage of justice. This paradox arises because the protection of the independence of judges through the doctrine of judicial immunity can limit the possibility of holding judges accountable for errors that occur in criminal decisions. In many cases, errors in criminal judgments are often seen as part of the inevitable dynamics of the judicial process. The legal system generally provides a mechanism for correction of such errors through legal remedies such as appeals, cassation, or review. However, the mechanism basically only serves to correct erroneous decisions, not to hold the judge who made the decision accountable.

This paradox can be explained through the concept of judicial independence juxtaposed with the judicial accountability dilemma. On the one hand, the independence of judges must be maintained so that judges can decide cases freely without pressure from any party. But on the other hand, the judicial system also requires accountability mechanisms to ensure that judges carry out their duties professionally and responsibly. When there is a serious error in a criminal verdict that results in a violation of human rights, the question arises about the extent to which the judge can be held accountable for the error. In many legal systems, the answer to this question is still debated because of concerns that legal accountability to judges could threaten the independence of the judiciary. However, the development of modern legal discourse shows that judicial accountability is an important part of efforts to strengthen public trust in the judicial system. Without adequate accountability mechanisms, the justice system risks losing legitimacy in the eyes of the public, especially when there are cases of miscarriage of justice that cause great harm to unjustly punished individuals.

Based on the phenomenon of miscarriage of justice and the paradox of judicial independence, this study proposes a reconstruction of the doctrine of judge accountability through a conceptual model called the balanced judicial responsibility framework. This model aims to strike a balance between the principle of judicial independence and the need for judicial accountability in the criminal justice system. The first principle in this model is limited judicial immunity, which is the concept of judge immunity that is not absolute. In this model, judges

are still given legal protection in carrying out their judicial functions, but these protections have certain limits when there are very serious errors in the judicial process. This approach aims to maintain a balance between the protection of the independence of judges and the need to ensure that judges remain accountable for actions taken in the course of their duties.

The second principle is gross judicial error liability, which is the concept of judges' accountability in cases of very serious legal errors. This accountability can be applied in certain situations, for example when the judge manifestly ignores very important evidence, commits a fundamental procedural violation in the judicial process, or deliberately misapplies the law so as to cause serious injustice. This concept is not intended to punish judges for every mistake in a verdict, but is only applied in cases of errors that are extraordinary in nature and have a serious impact on human rights.

The third principle is institutional accountability, which is strengthening the institutional accountability mechanism in the judicial system. This approach emphasizes the importance of the role of judicial oversight agencies in ensuring that judges carry out their duties in accordance with applicable professional and ethical standards. Strengthening institutional accountability can be done through various mechanisms, such as increasing transparency in the judicial process, strengthening the judge supervision system, and developing an evaluation mechanism for the quality of court decisions.

CONCLUSION

This study found that the phenomenon of miscarriage of justice in the criminal justice system shows a conceptual tension between the principle of judicial independence and the need for judicial accountability in ensuring substantive justice. Analysis of the construction of the doctrine of judge accountability shows that the Indonesian legal system is still heavily influenced by the doctrine of judicial immunity which provides broad protection for judges in carrying out their judicial functions. While such protections are important to maintain the freedom of judges from external intervention, their application tends to be absolute and can create paradoxes when serious errors occur in criminal judgments that have an impact on human rights violations. Based on these findings, this study offers a reconstruction of the doctrine of judicial accountability through the conceptual framework of the balanced judicial responsibility framework, which places judicial independence and judicial accountability in a balanced relationship through the principles of limited judicial immunity, gross judicial error liability, and institutional accountability. Theoretically, these findings contribute to the development of legal studies on the relationship between judicial independence and judicial

accountability in the context of the phenomenon of miscarriage of justice. In practical terms, this conceptual model can be the basis for the development of legal policies that are more responsive to criminal errors while maintaining the integrity and independence of the judiciary.

RECOMMENDATION

Based on the findings of this study, it is suggested that the government consider strengthening the regulatory framework that allows for a proportionate judicial accountability mechanism without reducing the principle of judicial independence, among other things, through the development of evaluation standards for serious judicial errors (gross judicial error)) and strengthening the supervision system for the quality of court decisions. In addition, legal education institutions and the academic community need to encourage the development of interdisciplinary studies on the relationship between judicial independence, judicial accountability, and the protection of human rights in the criminal justice system, so that the concept of a balanced judicial responsibility framework proposed in this study can be further developed within a more comprehensive legal policy framework. For further research, it is recommended to conduct an empirical or socio-legal study that examines the real practice of judges' accountability in wrongful conviction cases and conducts comparative studies on various legal systems that have developed judicial accountability mechanisms, so as to provide a deeper understanding of the model of judge accountability that is able to maintain a balance between independence justice and the demands of substantive justice in the criminal justice system.

THANK YOU

The author expresses his deepest gratitude to all parties who have provided support in the preparation of this research. Special appreciation is expressed to academics and colleagues who have provided scientific input, as well as to educational institutions and research institutions that have provided academic support and literature sources. The author also thanks the family for the moral support provided during the research and writing process of this article.

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