

## GUIDELINES AND COUNSELING IN THE DEVELOPMENT OF THE COMMUNITY MENTAL HEALTH WORKING IN THE CRIMINAL LAW PROCESS

*Mayurida*

Faculty of Tarbiyah Science and Teacher Training, State Islamic University of North Sumatra,  
Medan – Indonesia

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e-mail: [mayaridarida@gmail.com](mailto:mayaridarida@gmail.com)

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**Abstract:** Guidance and counseling is an assistance given to individuals to solve problems that occur in the community. Mental health is a condition that allows a person's physical, intellectual, and emotional to develop. People who undergo criminal proceedings at the investigation level experience mental/psychological pressure. Communities undergoing legal proceedings at the level of investigation as a whole need guidance and counseling. This article aims to know the mentality of people undergoing criminal legal proceedings at the investigation level; to know the level of guidance and counseling needs for people who are undergoing criminal investigation proceedings at the level of mental health development; and to find out what the community needs when undergoing legal proceedings related to health mentally. This research was a library research, namely by collecting data sourced from books and supporting documents such as newspapers, magazines and other literature. The results of this study are that people who undergo criminal proceedings at the investigation level experience mental and psychological disturbances and pressures requiring counseling guidance but there are no rules in the Republic of Indonesia (Unitary State of the Republic of Indonesia) governing the permissibility and guidance of the community who carry out criminal legal processes.

**Keyword:** Counseling Guidance, Mental Health, Society.

### INTRODUCTION

Humans are God's creatures created to worship and as khalifah on earth, the variety of problems experienced by humans as a result of ways of thinking, acting, lacking control, resulting in the emergence of new problems. In the Qur'an, it is stated that human relations with other human beings is advice advising, this is one of the commands that everyone who is in trouble then we must give advice or guidance. In this case, an in-depth study is needed. As there is in the Qur'an about the advice that is found in the Q.S al-'Ashr verses 1-3 that read:

وَالْعَصْرِ إِنَّ الْإِنْسَانَ لَفِي خُسْرٍ إِلَّا الَّذِينَ ءَامَنُوا وَعَمِلُوا الصَّالِحَاتِ وَتَوَّصَوْا بِالْحَقِّ وَتَوَّصَوْا بِالصَّبْرِ

Meaning: "For the sake of time. Truly man is truly at a disadvantage, except for those who believe and do righteous deeds and advice advise to obey the truth and advice advise to keep patience"

From the above verse explained the obligation to humans with other humans is advice advising in truth and patience, then in a hadith also explained about the advice that is, the Prophet Muhammad said: "Religion is advice" we ask, for whom O Messenger of Allah? he answered, for Allah, for His book, for His Messenger, and for leaders, and ordinary people (HR.Muslim).

In another hadith explains, from Abu Hurairah r.a "if your brother asks for your advice give him advice" (HR. Muslim)

In the development of science, this advice is also a discipline, namely guidance and counseling. Guidance and counseling is learning to develop fitrah or return to fitrah, by empowering (empowering), faith, reason, and will given by Allah swt.<sup>1</sup>

Guidance and counseling seeks to help individuals, where their role is increasingly needed, given the problems that have occurred in the midst of society today which is very complex. As it is known in living the wheel of life is not free from trials and trials, it takes a strong belief, and a healthy mentality so that control of the heart and mind can be controlled.

Humans as creatures who have a physical and spiritual, these two dimensions are needed different ways to meet their needs so that it runs well. Physical needs good nutrition, so that all physical needs that are needed can be met, so also spiritually requires good nutrition to be able to meet their needs so that whatever is decided spiritually is a positive action.

Faith, Science, Ihsan are some of the nutrients that are needed spiritually so that the results of that spiritual movement are good and positive actions. When physical and spiritual needs are not met it will cause new problems, when the stomach is hungry, emotions will peak because of respect for the lack of basic needs, which results in a momentary emotion, as well as if faith is low then it is easy to vent anger, so with a reflex hurting and harming others so as to result in victims of deeds committed. Cannot be denied as a result of unintentional or intentional acts will be held accountable before world courts and God's courts. Humans are people who have to live side by side and always interact with each other, so that there may be offense that affects the pressure and mental health that sometimes cannot be resolved by deliberation and consensus so that it must end in court that begins by complaining with one another related to the case experienced, felt, and seen through the police.

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<sup>1</sup>Anwar Sutuyo, *Bimbingan dan Konseling Islam*, (Yogyakarta: Pustaka Pelajar 2013), p. 22.

The number of problems that occur at any time, in the midst of society many problems must be resolved, ranging from murder, corruption, rape, kidnapping, violence, drugs, corruption, free sex, all will be held accountable in the eyes of the law.

In this case, according to some references that researchers read that almost all suspects (people undergoing criminal legal proceedings at the investigation level) experience mental / psychological pressure, but there is no regulation in the unitary state of the Republic of Indonesia that regulates the permissibility and guidance and counseling of suspects (people who undergo criminal proceedings at the investigation level), while for assistance in terms of legal proceedings, the state prepares lawyers (lawyers) who are prodeo for suspects who are unable to pay, and if the suspect is able to pay, then the state invites the suspect to appoint a legal advisor (lawyer) himself.

Through the basis of the case study it is deemed necessary to have guidance and counseling for people who are undergoing criminal legal proceedings at the investigation level, because their thinking will not be stable, there is guilt, there is a sense of sin, and there is shame so that the level of frustration results in a mental breakdown, a burden that thus it will be felt by everyone who is undergoing legal proceedings, in this case they are referred to as suspects at the investigation stage, defendants at the judicial stage, and convicted at the stage of judicial decisions.

How to provide guidance to those who are undergoing legal proceedings? and how does counseling play a role in providing mental guidance to people who are currently undergoing legal proceedings at the investigation level? When viewed from the development of social problems increasing, as evidenced by the number of people who become suspects in the North Sumatra Regional Police and continue to increase it can be seen from the news media online and print media, there are suspects are still under age, there are elderly, there are elderly still in school, there are women who are pregnant.

The suspects who have not been convicted means that the suspicion can be right or wrong, but they have received social sanctions, extreme shame, despair, loss of confidence in the closest people, tiredness, no more comfortable seats, places comfortable sleep, all as if in a dream, life changes 360 degrees, in terms of psychology is not in good condition, they need attention, need friends to talk, need the presence of people they care about, because loneliness increasingly feels where when sleeping can no longer hug children who loved, so the level of frustration peaked.

A counselor plays an important role in assisting people who undergo legal proceedings to give peace to their qolbiyah, to be patient in undergoing, to be sincere about

all consequences received. The impact of complaining and reporting will result in a criminal investigation so that one of the parties is named as a suspect at the investigation level.

It is a question whether the person who has been named as a suspect is psychically and mentally distressed? Do people who have been named suspects need guidance and counseling? Does the state represented by the investigator prepare counselors to provide guidance and counseling on the psychological and mental health of the suspect? Who is funding the counselor? All of these are still questions for us all and need further study.

Based on the above thought, the researcher is called and interested in raising the problem to provide a scientific finding that answers the problems experienced by people undergoing legal processes so that mental health development is a priority so that people who undergo the legal process are properly treated as creatures of God who every when it can change for the better. And considering that no one has discussed this issue even though it is related to one's psychological problems so it is considered necessary to provide scientific findings.

## **DISCUSSION**

### **Guidance and Counseling in Community Mental Health Coaching Undergoing Criminal Legal Process At Investigation Level**

#### **Guidance and Counseling**

Islamic guidance and counseling is an effort to help individuals learn to develop fitrah and / or return to fitrah by empowering (empowering) the faith, reason and will given by Allah swt,<sup>2</sup> to him to study the demands of Allah swt and his apostles so that the fitrah that exists in the individual develops with true and strong, according to the demands of Allah Almighty.

Guidance and counseling are activities that are "helpful" said to help because in essence individuals themselves who need to live according to God's demands (the straight path) so that they are safe.

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<sup>2</sup> Anwar Sutoyo, *Bimbingan Konseling Islam...*, p. 22.

## Mental Health Development

### Understanding Mental Health

Mental health is the realization of a truly harmony between the functions of the soul, and has the ability to deal with ordinary problems that occur, and feel positively his happiness and ability.<sup>3</sup>

Mental health is a very important dimension of life, because with mental health, life will run well and naturally. Mental health in general can be interpreted as a normal mental condition and has the motivation to live a quality life (in harmony with religious and cultural values), both in personal, family, work / professional life, as well as other aspects of life.

In the book Abdul Mujib and Yusuf Mudzkir, that Muhammad Mahmud Mahmud found two patterns in defining mental health<sup>4</sup>: a). Negative pattern (salaby), that mental health is the avoidance of a person from neurosis (al-amradh al-abiashabiyah), and psychosis (al-amrdh al-dzihaniyah). b). Positive pattern (ijaby), that mental health is the ability of individuals in adjusting themselves and their social environment.

Mental health can also be interpreted as a condition that allows optimal physical, intellectual, and emotional development of a person and that development is in harmony with the development of others.<sup>5</sup>

The explanation above can be concluded that with mental health one can change attitudes and traits in daily life both positive and negative conditions.

### Mental Health Characteristics

A healthy mentality will impose on a person in carrying out daily life. The formulation of mental health will in turn give birth to the formulation of mental health characteristics which are summarized from the signs or characteristics that are reflected in a healthy person.<sup>6</sup>

In this case Jahodah put forward the characteristics of mentally healthy people as follows: a). Have a positive personality attitude or attitude towards himself. b). Having the ability to actualize themselves. c). Able to carry out integration of physical functions. d). Having a self-autonomy which includes elements that regulate behavior from within or

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<sup>3</sup> Zakiah Daradjat, *Kesehatan Mental*, (Jakarta: Gunung Agung, 1968), p. 13.

<sup>4</sup> Abdul Mujib, Yusuf Mujadzakir, *Nuansa-Nuansa Psikologi Islam*, (Jakarta: PT. Raja Grafindo Persada, 2002), p. 133.

<sup>5</sup> Syamsu Yusuf, *Kesehatan Mental: Perpektif Psikologi dan Agama*, (Bandung: Remaja Rosda Karya, 2018), p. 26.

<sup>6</sup> Saiful Akhyar Lubis, *Konseling Islam dan Kesehatan Mental* (Bandung: Citapustaka Media Perintis, 2011), p. 136.

even free behavior. e). Having an objective perception of reality and having social sensitivity. f). Has the ability to master the environment and interact with it.

A similar sentiment was also conveyed by Zakiah Drajat, a person's mental health characteristics have a broad base of mental health limitations, concluding that a person with a healthy mentality is:<sup>7</sup> a). Avoid all mental disorders and diseases. b). Able to adjust. c). Able to avoid feelings of pressure or things that lead to frustration and also able to deal with ordinary shocks, d). The harmony of the functions of the soul in its life is realized, e). Able to make maximum use of the potential and talent he possesses, f). Feeling yourself valuable, useful, and happy.

Based on the characteristics put forward by mental health discipline experts, that the influence of individuals with good mental health will have an impact on behavior and lifestyle, so that he will tend to stay away from deviant behavior.

### **Signs of Mental Health**

The signs of mental health According to Muhammad Mahmud Mahmud there are nine signs, among others:<sup>8</sup> a). Establishment, calmness (*al-thuma'nina*), relax in carrying out the obligations both obligations to himself, society, or God. b). Adequate (*al-Kifayah*). c). Accept the state of himself and others. d). The ability to maintain or protect oneself. e). The ability to assume responsibilities, both his, family, social and religious responsibilities. f). Having the ability to make sacrifices and make amends. g). The ability of individuals to form good social relationships based on mutual trust and complementarity. h). Have realistic desires so that they can be achieved well. i). The existence of a sense of satisfaction, joy and happiness in responding to or receiving favors obtained.

The existence of the signs mentioned above we will understand individuals who are mentally healthy, and are having mental health disorders. So that treatment can be done as soon as possible to someone who is being disturbed.

### **Classification of Mental Health Disorders.**

To make it easier to distinguish mentally healthy individuals from mentally unhealthy individuals, the classification of mental disorders according to DSM-IV is as follows.<sup>9</sup> Disorders that are usually diagnosed first in infancy, childhood, or adolescence: a). Mental retardation, b). Learning disorders, c). Impaired motor skills, d). Communication disorders, f). Pervasive developmental disorders, g). Disorders of concentration and

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<sup>7</sup> Zakiah Daradjat, *Islam dan Kesehatan Mental*, (Jakarta: CV Haji Masagung, 1998), p. 9.

<sup>8</sup> Mujadzakir, *Nuansa-Nuansa Psikologi...*, p.136.

<sup>9</sup> Latipun Moeljono Notoedirdjo, *Kesehatan mental* (Malang: Universitas Muhammadiyah Malang, 2005), p. 41.

disruptive attention, h). Eating disorders in infants and early childhood, i). Tick disorders, j). Impaired elimination.

Mental disorders are caused by general medical conditions that are not disclassified to others: a). Disorders related to substance use, b). Schizophrenia and other psychotic disorders, c). Mood disorders (feelings), d). Anxiety disorders, f). Somatoform disorder, g). Artificial Disorders (factitious), h). Dissociative Disorders, i). Sexual disorders and gender identity, j). Eating Disorders, k). Sleep disturbance, l). Another unclassified impulse control disorder, m). Adjustment failure, n). Personality Disorders, o). Other conditions that can be the focus of clinical attention, p). Other mental disorders.

Mental disorders are simply defined as absence or lack of mental health, mental disorders are marked: a). There is a decrease in mental function, b). The occurrence of improper or reasonable behavior. c). To determine the criteria for mental disorders there are six types, namely, d). People who have received psychiatric treatment or treatment, e). The wrong person social adjustment, f). Psychiatric diagnosis, g). Subjective unhappiness, h). There are objective psychological symptoms, i). failure to adapt positively.<sup>10</sup>

### Development of Mental Health According to Islam

In the Koran there are many verses that explain about mental health including:

1. Q.S. ar-Ra'd:28

الَّذِينَ ءَامَنُوا وَتَطْمَئِنُّ قُلُوبُهُمْ بِذِكْرِ اللَّهِ أَلَا بِذِكْرِ اللَّهِ تَطْمَئِنُّ الْقُلُوبُ

Meaning: (ie) believers and their hearts are at peace in the remembrance of Allah. Remember, only by remembrance of Allah does the heart become at peace.<sup>11</sup>

2. Q.S. al-Baqarah:112

رَبَّنَا وَاجْعَلْنَا مُسْلِمِينَ لَكَ وَمِنْ ذُرِّيَّتِنَا أُمَّةً مُسْلِمَةً لَكَ وَأَرِنَا مَنَاسِكَنَا وَتُبْ عَلَيْنَا إِنَّكَ أَنْتَ التَّوَّابُ الرَّحِيمُ

Meaning: "O our Lord, make both of us submissive to You and (make) among our children and grandchildren the people who are obedient to You and show us the ways and places of our Hajj, and accept our repentance. Verily, You Are the Recipient, the Most Merciful".<sup>12</sup>

3. Q.S. Fushshilat: 30

إِنَّا لِلَّهِ قَائِلُونَ رَبَّنَا اللَّهُ ثُمَّ اسْتَقَمُوا تَتَنَزَّلُ عَلَيْهِمُ الْمَلَائِكَةُ أَلَّا تَخَافُوا وَلَا تَحْزَنُوا وَأَبْشِرُوا بِالْجَنَّةِ الَّتِي كُنْتُمْ تُوعَدُونَ

<sup>10</sup> Latipun Moeljono Notosoedirgo, *Kesehatan...*, p. 57.

<sup>11</sup> Q.S. ar-Ra'd/13:28

<sup>12</sup> Q.S. al-Baqarah/2:112



Meaning: Verily those who say: "Our Lord is God" then they establish their stand, then the angels will come down to them saying: "Do not be afraid and do not feel sad, and cheer them up with the jannah that God has promised you".<sup>13</sup>

4. Q.S. al-Isra: 82

وَنُنَزِّلُ مِنَ الْقُرْآنِ مَا هُوَ شِفَاءٌ وَرَحْمَةٌ لِّلْمُؤْمِنِينَ وَلَا يَزِيدُ الظَّالِمِينَ إِلَّا خَسَارًا

Meaning: And We send down from the Qur'an that is an antidote and mercy to those who believe and the Qur'an does not add to the wrongdoers other than losses.<sup>14</sup>

5. Q.S. Yunus:57

يَا أَيُّهَا النَّاسُ قَدْ جَاءتْكُمْ مَوْعِظَةٌ مِّن رَّبِّكُمْ وَشِفَاءٌ لِّمَا فِي الصُّدُورِ وَهُدًى وَرَحْمَةٌ لِّلْمُؤْمِنِينَ

Meaning: O people, verily you have come to learn from your Lord and healer for diseases in the bosom and guidance and mercy for those who believe.<sup>15</sup>

From the information above verses can be learned and concluded in fostering mental health according to Islam it is: a). Faith in Allah, b). People who do good deeds, c). Counseling one another with truth and patience, d). Remembrance of Allah, e). Surrender to God, f). Istiqomah (firm in establishing God and carrying out his Shari'a).

With the above method it is very possible to improve people who are experiencing mental health disorders, because mental health is closely related to spirituality. The Islamic perspective, the spiritual can only be overcome by a spiritual approach.

## SOCIETY

### Understanding the Community

Aristotle (384 - 322 before AD), an expert in ancient Greek thought states in his teachings, that humans are Zoon Politicon, meaning that humans as creatures basically always want to get along and gather with other fellow human beings, so creatures who like to be social. And because of their sociable nature, humans are called social creatures.<sup>16</sup>

The desire to live together has indeed become a human trait, it is a physical necessity to carry on his life. Living together as a relationship between individuals of different levels, for example: marital relations in the household, family, ethnicity, nation and household in the world. The shared life can take the form of villages, cities, regions, countries and the United Nations.<sup>17</sup>

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<sup>13</sup> Q.S. Fushshilat/41:30

<sup>14</sup> Q.S. al-Isra/17:82

<sup>15</sup> Q.S. Yunus/10:57

<sup>16</sup> C. S. T. Kansil, *Pengantar Ilmu Hukum dan Tata Hukum Indonesia*, (Jakarta: Balai Pustaka, 1989), p. 29.

<sup>17</sup> C. S. T. Kansil, *Pengantar Ilmu Hukum dan Tata Hukum Indonesia....*, p.30



Human unity which arises from the same nature is commonly called society. So the community is formed when there are two or more people living together, so that in the life of the relationship arises various relationships or ties that result in that one and the other knows each other and influences.<sup>18</sup>

The British call society by society. Society is a relatively independent or self sufficient population characterized by internal organizations, territoriality, culture distinctiveness, and sexual recruitment. Society also means civilized community, a civilized community, or civil society, or in The Encyclopedia of Religion referred to as the median community.<sup>19</sup>

Islamic society is a group of people who have habits, traditions, attitudes and feelings of unity that are bound by the similarity of religion, namely Islam. In sociology studies, Islamic societies are distinguished in terms of the religious identity of the community and the traditions of the Islamic religion that live and develop in society.<sup>20</sup>

In the context of the ummah, Ali Shariati defines society as a group of people who all agree individually on the same goal and each helps to move towards the expected goals on the basis of the same leadership.<sup>21</sup>

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Society is a group of individuals and a group of families who live in a certain area, living together with the foundation of regulations that apply in their environment.<sup>23</sup>

The researcher draws the conclusion that a society is formed because every human being uses his feelings, thoughts and desires to react to his environment and this shows that humans are social creatures who naturally need each other.

### **Community Groups**

The Community Groups are: (a). In society there are various groups, for example groups of students/students when resting in school/college, groups that arise due to family relations associations and so on. Generally there are three kinds of large groups namely, (b). Group based on family relationships: family gathering. (c). Groups based on interests/occupations; economic associations, cooperatives, trade unions, social

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<sup>18</sup>C. S. T. Kansil, *Pengantar Ilmu Hukum dan Tata Hukum Indonesia...*, p. 31

<sup>19</sup>Safei, dan Agus Ahmad, *Sosiologi Islam* (Bandung: Simbiosis Rekatama Media, 2018), p. 73.

<sup>20</sup> Safei, dan Agus Ahmad, *Sosiologi Islam...*, p. 74.

<sup>21</sup>Safei, dan Agus Ahmad, *Sosiologi Islam...*, p. 20.

<sup>22</sup>Al Rasyidin, *Falsafah Pendidikan Islam* (Bandung: Citapustaka Media Perintis, 2017), p.32.

<sup>23</sup>Hasan Basri, *Filsafat Pendidikan Islam* (Bandung: Pustaka Setia, 2017), p. 47.

associations, arts associations, sports and others. (d). Groups based on the relationship of goals/views or ideology; political parties, religious associations.<sup>24</sup>

Ali Nurdin summed up the special characteristics of an ideal society according to the Koran as follows:

A society that is completely based on solid faith. The faith serves as a motivator as well as a counterweight in all the progress processes that occur in society. Besides that, with his faith, the community will reach glory and heights: a). The society in which each member works together to command each other the ma'ruf or all forms of kindness that do not conflict with religious values, b). A society in which its members always endeavor to prevent any evil, that is, any form of violation of the ma'ruf, c). A society in which every member makes deliberation as one of the pillars supporting the life of the community. A society that upholds the values of justice, as part of the ma'ruf, d). The community in which the brotherhood of fellow citizens is created. This brotherhood is not only limited to fellow Muslims, but includes ukhuwah Islamiyah, ukhuwah 'ubudiyah (brotherhood in submission to Allah), ukhuwah wathaniyah wa al-nasab (brotherhood of fellow countrymen and relatives), ukhuwah fi din al-Islam (brotherhood among Muslims).<sup>25</sup>

### **Community life**

Every human being has his own nature, character and will. But in human society, they have relations with each other, cooperating, please help, helping to get the necessities of life. However, often the interests are different and some are even conflicting, which can lead to disputes that interfere with the harmony of living together. In this case a strong person or group oppresses a weak person or group to emphasize their will.<sup>26</sup>

That every community (ummah) has an educational responsibility to remind, teach, educate, train, direct, and guide others in order to remain firm (istiqomah) in their agreement or shahadah primordial with Allah swt. When people ignore, let alone forget the educational responsibilities, then in fact they have broken or kufr of the agreement they have made with God.

In an Islamic perspective, there is no noble and most worthy covenant to be obeyed, except the agreement with Allah. Then, for those who break the covenant with God, there is no balanced reward except hell or 'very painful punishment.<sup>27</sup>

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<sup>24</sup> Kansil, *Pengantar Ilmu Hukum...*, p. 29.

<sup>25</sup>Rasyidin, *Falsafah Pendidikan Islam...*, p. 35-36.

<sup>26</sup>Kansil, *Pengantar Ilmu Hukum...*, p. 29.

<sup>27</sup>Rasyidin, *Falsafah Pendidikan Islam...*, p. 38.

In general, the educational tasks that must be carried out by the community include:

a). Directing yourself and all members of the community (ummah) to do tawheed and be devoted to Allah, b). The community is obliged to submit to Islam, mentor, and grant the shari'a of Allah swt, as did the Prophets and Apostles. Among the content that must be educated is reading the verses of Allah, calling on people to worship God and stay away from Thagut, give a fair verdict, bring good news and give warnings, and be a witness for fellow ummah. c). The community is obliged to call each other to the way of Allah, encourage those who are sorry and prevent evil. d). Society must educate others to always compete in doing obligations, because among the secrets of why Allah made man in groups - not just one ummah - is to test and see how humans compete in virtue. e). Society (ummah) is obliged to share the grace of God or sacrifice for each other, because in fact God Almighty has prescribed such things. f). The community (ummah) must uphold a just attitude so that they can be witnesses to the deeds of their fellows, as the apostles were sent by Allah to be witnesses of their deeds. g). The community is obliged to educate the responsibilities of each of its citizens, because they only live in a span of time. One day, death will pick up without being able to be pushed back or advanced. There will be a time when every ummah will be called to look at its notebooks and receive a reward for everything that has been done.<sup>28</sup>

### **Law Society**

According to ter Haar, the legal community (legal community) is: a). Regular human union, b). Settling in a certain area, c). Having rulers, d). Having tangible or intangible wealth.<sup>29</sup>

### **Law as a tool to change society**

Every group of people always has a problem as a result of the existence of differences between the ideal and the actual, between the standard and the practical, between what should or is expected to be done and what is in reality done. Standards and group values in society vary as factors that determine individual behavior.

Deviations of ideal values in society can be referred to as examples: theft, adultery, inability to pay debts, injuring others, killing, defaming a good person, and the like. All of these examples are deviant forms of behavior. cause problems in society, both simple society and modern society. Such a situation, the group faces a problem to ensure order if

<sup>28</sup>Rasyidin, *Falsafah Pendidikan Islam...*, p. 38-39.

<sup>29</sup> Bushar Muhammad, *Asas-Asas Hukum Adat*, (Jakarta: PT. Pradnya Paramita, 2006), p. 21.

the group wants to maintain its existence.<sup>30</sup> The legal function in the groups referred to above is the application of social control mechanisms that will clean the community of unwanted community rubbish so that the law has a function to maintain the existence of the group. Group members will succeed in overcoming demands that lead to deviations, in order to guarantee so that the group remains intact, or else the possibility of law fails in carrying out its duties so that the group is destroyed, divorced, or extinct. because it appears to have a dual function.<sup>31</sup>

Aside from being a social control, the law also functions as a tool to change society or can be called social engineering. The community modifier meant by Roscoe Pound, is analogous to a mechanical process, it is seen by the development of industry and business transactions that introduce new values and norms.

In this case, the role of the "modifier" is held by the judge through "interpretation" in hearing the case he faces in a "balanced" manner. These interpretations can be done by taking into account several things.<sup>32</sup> The study of the actual social aspects of legal institutions is as follows: a). The aim of effective lawmakers, b). The study of sociology in preparing law, c). Study of legal methodology, d). Legal history, e). The significance of the reasons and solutions of individual cases which in the previous generation contained abstract justice from an abstract law.

### **People Undergoing Legal Process**

There are also people who undergo legal proceedings who are intentionally or unintentionally committing administrative or criminal offenses.

In the world of law the words of people (person means the bearer of rights, that is, something that has rights and obligations and is called a legal subject. And there are also legal subjects are as follows:<sup>33</sup>

#### **1. Legal Subject**

- a. Humans (naturlijke person)
- b. Legal entity (rechtspersoon)

#### **2. Legal Objects**

The definition of a legal object is anything that is useful for a legal subject and that can be made the object of something related to law. And ordinary legal objects are objects. And according to article 503 of the Criminal Code, the object can be divided into: a).

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<sup>30</sup> Ronny Hanitjo Soemitro, *Beberapa Masalah dalam Studi Hukum dan Masyarakat*, (Bandung: Remaja Rosdakarya, 1985), p. 53.

<sup>31</sup> Zainuddin Ali, *Sosiologi Hukum* (Jakarta: Sinar Grafika, 2019). p. 23

<sup>32</sup> Zainuddin Ali, *Sosiologi Hukum...*, p. 24

<sup>33</sup> Kansil, *Pengantar Ilmu Hukum...*, p. 117

Tangible objects, that is, everything that can be felt by the five senses, such as houses, books, and others. b). Intangible objects (immaterial objects) are all kinds of rights such as: copyright, trade mark rights and others.<sup>34</sup>

## **CRIMINAL LAW**

### **Understanding of Criminal Law**

Criminal law is a law that regulates violations of violations and crimes of crime against the public interest, where actions are threatened with law which constitutes suffering or torture.<sup>35</sup>

### **Distribution of Criminal Law**

Criminal law can be divided into: a). Objective criminal law (jus punale), which can be divided into: Material criminal law, and Normal criminal law (criminal procedural law). b). Subject criminal law (jus puniendi). c). General criminal law. d). Special criminal law, which can be divided into, e). Military criminal law, f). Tax criminal law (physical)

### **The Purpose of Criminal Law**

Criminal law is a science of law: therefore the review of materials regarding criminal law is mainly carried out from the perspective of human answers regarding "acts that can be punished". If a person violates a criminal code, then the result is that the person can be held accountable for his actions so that he can be subject to punishment (except crazy people, under age and so on). The purpose of the criminal law is to provide a system in the many ingredients of the law: the principles of principle are linked each other so that they can be included in one system. Such investigators are dogmatic jurists.<sup>36</sup>

In addition, criminal law is seen as social science. As a social science, the causes of crime are investigated and ways to be eradicated are investigated.

### **Criminal offenders**

- a. Suspect. Republic of Indonesia Law No. 8 of 1981 concerning criminal item 14 referred to as a suspect is a person who because of his actions or circumstances, based on preliminary evidence, should be suspected as a criminal.<sup>37</sup>
- b. Defendant. The defendant is a suspect who has been prosecuted, prosecuted and tried in court<sup>38</sup>.

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<sup>34</sup> Kansil, *Pengantar Ilmu Hukum...*, p. 118

<sup>35</sup> Kansil, *Pengantar Ilmu Hukum...*, p. 257

<sup>36</sup> Kansil, *Pengantar Ilmu Hukum...*, p.265

<sup>37</sup> KUHP, *Kitab Undang Undang Hukum Acara Pidana* (Jakarta:Yayasan Bima, 1982), p.5

- c. Convicted. Law of the Republic of Indonesia No. 8 of 1981 concerning criminal item 32. The meaning of a convicted in the Law is a person who is convicted based on a court decision that has obtained permanent legal force.<sup>39</sup>

From the explanation above, it can be concluded that criminal law is a rule that regulates the structure of people's lives so that every community feels comfortable when interacting, socializing and so on.

## CRIMINAL INVESTIGATION

### Definition of Investigation

Investigation is a series of investigative actions in terms of and according to the method set out in the legal draw to search for and collect evidence which with evidence makes clear about the crime that occurred and is used to find the suspect.<sup>40</sup>

### Scope of Inquiry

- a. Report/complaint is a notification conveyed by a person because of the rights and obligations under the law to the authorized official regarding whether or has been or is suspected to have occurred a criminal event.
- b. Investigators are police officials of the Republic of Indonesia who, given certain powers, can carry out investigative tasks set out in the law.
- c. Investigation is a series of investigative actions to look for or find an event that is suspected to be a criminal offense to determine whether or not an investigation can be carried out in the manner stipulated in the law.

As for the matter of investigation, the person being investigated is: a). A witness is a person who can provide information for the purposes of investigation, prosecution and trial of a criminal case which he hears himself, sees for himself, and experiences himself. b). Suspect: a person who due to his actions or circumstances, based on preliminary evidence should be suspected as a criminal. c). Expert is a person who has special expertise in matters needed to make light of a criminal case in the interest of the examination. d). Collecting evidence is an investigator looking for information related to objects or non-objects that can be used as tools to prove whether or not a crime occurred. e). A coercive effort is if someone who knowingly does not comply with the laws and regulations in the criminal proceedings at the investigation level.

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<sup>38</sup> KUHP, *Kitab Undang Undang Hukum Acara Pidana...*, p. 6

<sup>39</sup> KUHP, *Kitab Undang Undang Hukum Acara Pidana...*, p.8

<sup>40</sup> KUHP, *Kitab Undang Undang Hukum Acara Pidana...*, p. 23.

The efforts made are as follows: a). Summons are made for suspects and witnesses, b). A search is made of the scene of the crime and the place where he is able to provide information on the crime, c). Confiscation is carried out based on the information of the suspect and witness of objects related to the criminal act committed, d). Arrest is carried out by the investigator in this case by the police, e). Detention: i.e. the placement of the suspect or accused in a certain place by the investigator or the public prosecutor or judge by stipulation, in terms of and according to the manner stipulated in the law.

### **Investigation Supervision:**

When you want to conduct an oversight of the investigation, the things you do include: a). Title of case, b). Determination of the suspect, c). Supervision of criminal investigations.

### **Suspect Rights**

The rights of the suspect are protected by the Law of the Republic of Indonesia in this case the Criminal Code as the highest legal basis in Indonesia, and in this case the rights of the suspect are as follows: (a). Right of priority in case settlement. (b). Right of preparation for defense, (c). The right to give information freely, (d). The right to get an interpreter. (e). The right to legal assistance, (f). The right to choose his legal advisor, (g). The right to free legal assistance, (h). The right to contact legal counsel. (i). Personal doctor visit rights, (j). Rights are notified of, contact or receive family visits and relatives, (k). The right to send a letter, (l). The right to receive visits by clergy, (m). The right to be tried at a hearing is open to the public. (n). The right to file witnesses, (o). The right not to be burdened with evidentiary obligations, (p). Right to compensation and rehabilitation, (q). Legal advisors / lawyers are those who accompany people who are in criminal proceedings, (r). Infrastructure, (s). The Criminal Procedure Code (KUHAP).

### **Implementation of Guidance and Counseling in Fostering the Mental Health of People Who Are Under Criminal Legal Process At the Investigation Level**

Investigations at the investigation level are called suspects, hearings at the prosecution level and at the court level are called prosecutors and after a sentence that remains is called a convict. The accused individual is a social creature who needs a counselor to interact and solve problems in the form of advice, motivation and others. In daily life the timpwa also need the help of other individuals, so that the cases they face can be resolved, all of which can be done and influenced by their mental health.



Humans when born in the world already need help and guidance from other humans, especially guidance from fathers and mothers. Father and mother nurture him to be individuals who grow and develop optimally and normally. So apart from that everyone who faces a problem especially in this study is the suspect in dire need of guidance and counseling that is able to provide solutions or advice for the problem being faced.

After we know the rights of the suspect, it can be understood that this counseling is in the right which a person has to make it easier to know the relationship between counseling and the suspect's rights. In this case, experts are needed: (a). Psychiatrist expert's description Psychiatrists will use a psychological approach, (b). Physician-related information Doctors or other medical personnel will use regular checks on their physical health Statement of spiritual teacher related to spirituality. (c). Spiritual teachers will use approaches in understanding religion, giving advice and patience, giving solutions so that with the religious approach it is hoped that people who undergo legal proceedings at the investigation level are able to undergo the problems they face without despair. Because mental health affects the information in the investigation, health and psychology.

Only people who are physically and mentally healthy, can be held accountable for their actions. Punishment is expected to be effective so that later they are able to change their way of thinking and consider the consequences for actions that harm others and their environment. Get knowledge, understand religion, and be able to carry out religious orders that have an impact on religion on his mental health.

## METHODS

The method used in this paper uses the library research approach. Literature study or literature is a series of activities relating to the method of collecting library data, by reading and recording and processing research material.<sup>41</sup>

In this literature study there are four main characteristics that need attention: First, the writer or researcher deals directly with text (nash) or numeric data, not with direct knowledge from the field. Second, library data is ready to use, which means that the researcher does not go directly into the field because the researcher is dealing directly with the data source in the library. Third, library data are generally secondary sources, in the sense that researchers obtain material or data from second hand and not original data from the first data in the field. Fourth, library data conditions are not limited by space and time.<sup>42</sup>

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<sup>41</sup> Mestika Zed, *Metode Penelitian Kepustakaan* (Jakarta: Yayasan Obor Indonesia, 2003), p. 3

<sup>42</sup> Mestika Zed, *Metode Penelitian Kepustakaan....*, p. 4-5

Based on the explanation above, the data collection used by the author in making this article. The author examines several journals, books and other documents along with sources of data or other information deemed relevant to this paper.

## CONCLUSION

From this study it can be concluded that: (1) Almost all those related to criminal behavior experience mental health disorders (2). Investigators are responsible for paying attention to the advice of psychiatrist experts and counselors related to mental / psychological health. (3) the approach and practice of guidance and counseling in law enforcement agencies already exists, it's just that there are no rules about whether or not guidance and counseling in law enforcement agencies, in this case according to what is stated in the law related to the rights of the suspect, that is, they can bring spiritual teachers (spiritual leaders).

The recommendation from this study is that it is expected that the state will make rules about mentoring and counseling assistance to the mental health of people who are undergoing legal process at the investigation level by presenting counselors. for academics it is advisable to make the first follow-up research to determine the level of guidance and counseling needs in the mental health of people who are undergoing criminal legal proceedings at the investigation level. the second conducts a study of the psychology of criminals at the investigation level.

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