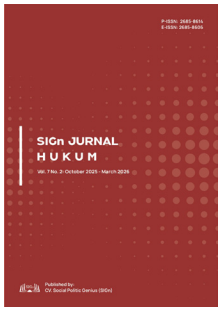

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Article Title

Judicial Law-Finding in the Criminal Justice System: Harmonizing Legal Certainty and Substantive Justice

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ABSTRACT

The enactment of Law Number 1 of 2023 marks a fundamental paradigm shift in the Indonesian criminal justice system, prioritizing substantive justice over formal legal certainty. This shift radically transforms the role of a Judge from a mere mouthpiece of the law (bouche de la loi) to an active law-finder (rechtsvinder). However, the practice of law-finding in the field remains largely ad hoc and intuitive, creating a risk of inconsistency. Addressing this urgency, this research aims to formulate a systematic and accountable ideal concept of judicial law-finding to serve as an operational guide for Judges. Using a normative juridical method that integrates a statute approach, a conceptual approach, and a case approach to key court decisions, this study conducts a methodological reconstruction of the practice of judicial discretion. The primary finding is the formulation of a "judicial compass" built upon five mutually reinforcing fundamental principles: (1) proportionality, (2) transparency and accountability, (3) judicial consistency, (4) social responsiveness, and (5) dynamic equilibrium. These five principles collectively transform the law-finding process into a structured and rational approach. Thus, this ideal concept contributes both theoretically and practically by offering a coherent framework for Judges to execute the mandate of Law Number 1 of 2023, enabling them to harmonize legal values justly and measurably in every decision.

Keywords: *Judge; Law-Finding; Legal Certainty; Penal Code; Substantive Justice.*

INTRODUCTION

Judicial power is a cornerstone of the modern rule of law. Its independence is an absolute prerequisite for guaranteeing the enforcement of law and justice (Suherman, 2019). Within the criminal justice system, the role of a Judge as the embodiment of this power can no longer be viewed as a mere mechanical applicator of statutes. The positivistic paradigm, which positions the Judge as simply a mouthpiece of the law (*bouche de la loi*), is now confronted by the demands of an increasingly complex social reality. This phenomenon prompts a fundamental shift toward a more progressive understanding, where Judges are required to actively engage in law-finding (*rechtsvinding*) to achieve the ultimate purpose of the judiciary: substantive justice (Alfikri & Rahmatullah, 2024).

The transformation of the Judge's role becomes ever more crucial when faced with the inherent limitations of legislation. Written law, despite being meticulously drafted, is inherently static. It can never fully anticipate the entire spectrum of dynamics and complexities that arise in judicial practice (Holili et al., 2024). Legislation often lags behind the pace of social and technological developments, as well as evolving crime patterns. This condition can create a legal vacuum (*rechtsvacuum*) or ambiguous norms (vague norm). It is in these situations that judicial law-finding becomes a vital mechanism for bridging the gap between rigid legal texts and the sense of justice that exists within society (living law).

A pivotal moment that legitimized and even mandated the active role of Judges in Indonesia was the enactment of Law Number 1 of 2023. Unlike the previous

codification, Law Number 1 of 2023 explicitly shifts the pendulum from the supremacy of formal legal certainty toward the primacy of substantive justice. Article 53 section (2) of Law Number 1 of 2023 marks a new era. This article affirms that "*in upholding law and justice, should a conflict arise between legal certainty and justice, Judges are mandated to prioritize justice*." This directive radically alters the landscape of judicial authority and demands a new conceptual framework for Judges in adjudicating cases.

The urgency of judicial law-finding manifests clearly in the various dilemmas that Judges confront in the courtroom. In narcotics crime cases, for instance, Judges are often faced with mandatory minimum sentences. If applied rigidly, these provisions can lead to disproportionate rulings that injure the sense of justice, particularly for users who are victims of substance abuse (Wibowo & Widiyasmoko, 2021). Some Judges, with considerable judicial courage, have delivered sentences below these minimums. Such actions, though controversial, demonstrate a clear effort to prioritize justice (Nasrullah, 2020). This phenomenon highlights the inherent tension between statutory requirements and considerations of justice in specific cases.

A similar problem emerges in the form of sentencing disparity. It occurs when two defendants in comparable cases receive significantly different charges or verdicts (Hardiansyah et al., 2024). This disparity not only erodes public trust in the justice system but also signifies the absence of uniform guidelines for Judges in exercising their judicial discretion. On the other hand, judicial practice has also shown positive innovations. One example is in the case of a justice collaborator, where a Judge constructed a "parallel sentencing track" to reward a cooperating witness. It was a breakthrough that successfully achieved substantive justice, despite not being comprehensively regulated in Law Number 8 of 1981 (Firmansyah et al., 2025).

In line with a global paradigm shift, Indonesia's criminal justice system is increasingly adopting the principles of restorative justice. This approach emphasizes victim restitution and reconciliation (Rahmat & Umar, 2023). It inherently demands flexibility and judicial law-finding (Laia, 2024a). The implementation of restorative justice, both in juvenile cases and in the handling of narcotics users, suggests that the judicial system is shifting away from a purely punitive approach (Mahmud et al., 2019; Lestari et al., 2023). However, its effective application is heavily dependent on the ability of Judges to engage in creative and responsive interpretation tailored to the unique characteristics of each case.

Several prior studies have examined various aspects of law-finding. Suparno and Jalil (2022) assert that law-finding is a legitimate mechanism within the civil law system to address legal vacuums, referencing its juridical basis in Law Number 48 of 2009. Meanwhile, Harini and Rahmat (2025) place greater emphasis on the ethical dimension, arguing that the integrity and professionalism of Judges are key to

preventing the misuse of the law-finding process. These studies have made important contributions by legitimizing the practice of judicial law-finding in Indonesia from both normative and ethical perspectives.

Nevertheless, a significant research gap exists in the current literature. Previous studies have tended to focus on juridical-normative analysis concerning whether Judges are permitted to perform law-finding. They do not, however, provide an operational answer as to how Judges should conduct law-finding in a manner that is both systematic and accountable. It is particularly relevant in the context of the new mandate outlined in Law Number 1 of 2023. There remains a scarcity of research that comprehensively formulates a framework or ideal concept to serve as a practical guide for Judges in navigating the conflict between legal certainty and substantive justice as mandated by Article 53 of Law Number 1 of 2023.

The novelty of this research lies in the formulation of an ideal concept for judicial law-finding, specifically designed for the post-reform era of the Penal Code. This concept does not merely advocate for an active judicial role; rather, it constructs a structured model based on five fundamental principles: proportionality, transparency, consistency, responsiveness, and equilibrium. These principles function as methodological instruments for Judges. The originality of this research is its effort to translate the philosophical mandate of Law Number 1 of 2023 into a more concrete and implementable guide for everyday judicial practice.

Based on this background and the identified research gap, this study aims to analyze the urgency of judicial law-finding and to formulate an ideal concept to guide the practice of a more just criminal justice system in Indonesia. This research is expected to yield two primary contributions. Theoretically, it contributes to the development of criminal law science by offering a new conceptual model for judicial law-finding within a modern legal system. Practically, this study aims to serve as a reference for Judges, policymakers, and academics in their efforts to enhance the quality of court decisions and bolster the legitimacy of the criminal justice system in the public eye.

METHOD

This study is classified as normative legal research. Its focus is on the doctrinal analysis of legal norms, principles, and concepts. This methodological choice is grounded in the primary objective of the research: to formulate an ideal, prescriptive concept of judicial law-finding, rather than to merely describe empirical phenomena (Qamar & Rezah, 2020). To achieve this, a multidimensional approach is employed, which synergistically integrates a statute approach, a conceptual approach, and a case approach. The combination of these three approaches facilitates a comprehensive

analysis that spans from positive norms and theoretical elaborations to their manifestations in judicial practice. It is expected to yield a conceptual formulation that is both theoretically robust and practically relevant.

The primary legal sources that form the main pillar of this study include relevant legislation, with a central focus on Law Number 1 of 2023. Additionally, this research analyzes court decisions that are significant enough to be considered jurisprudence or precedent, particularly those that explicitly demonstrate the practice of judicial law-finding in situations of tension between legal certainty and substantive justice. The selection criteria for these decisions are based on their significance in shaping legal discourse, such as rulings that grant leniency below a mandatory minimum sentence or those that apply the principle of a justice collaborator as a legal breakthrough.

To enrich and deepen the analysis, this research is supported by a comprehensive review of secondary legal sources. These include textbooks, reputable national and international law journals, prior research findings, and scholarly articles discussing theories of justice, law-finding, and criminal law policy. These materials serve to build the theoretical framework, contextualize the problem, and position this research within the broader academic debate. Furthermore, tertiary legal sources such as legal dictionaries and encyclopedias are used to provide definitive explanations for the technical terminology employed.

Legal materials were gathered using a documentary study technique and a systematic literature review. Primary legal sources were obtained by searching official legislative databases and the Supreme Court's case law directory. Meanwhile, secondary and tertiary legal sources were collected through searches on scholarly journal portals, digital libraries, and academic repositories. All collected materials were then identified, inventoried, and classified according to their relevance to the research questions to ensure the data used is both accurate and accountable (Sampara & Husen, 2016).

The analysis of legal materials in this study employs a prescriptive qualitative method. For primary legal sources in the form of legislation, methods of legal interpretation are applied. These include systematic interpretation to understand the relationship between norms, historical interpretation to trace legislative intent, and teleological interpretation to capture the philosophical purpose behind a norm—especially the mandate to prioritize justice in Law Number 1 of 2023. To analyze court decisions, qualitative content analysis is used, focusing on the Judge's legal reasoning (*ratio decidendi*). This technique aims to deconstruct how Judges justify the judicial discretion and law-finding they undertake. Finally, through the conceptual approach, a critical analysis is conducted to deconstruct the meanings of "legal certainty" and "substantive justice." The results are then synthesized to construct an "ideal concept

of judicial law-finding" that is coherent, systematic, and academically defensible (Irwansyah, 2020).

RESULTS AND DISCUSSION

A. The Manifestation of Juridical Tension in Judicial Practice: An Analysis of Key Court Decisions

An analysis of criminal justice practices in Indonesia empirically confirms the existence of a persistent dialectic between law in principle (*das sollen*) and the demands of substantive justice in concrete reality (*das sein*) (Qamar & Rezah, 2022). This gap is no longer a mere theoretical discourse; it has become an arena for competing values that manifests vividly in the legal reasoning (*ratio decidendi*) of Judges. By applying the case approach outlined in the methodology chapter, this study identifies several critical areas where Judges, whether consciously or not, engage in judicial law-finding to bridge the chasm between the rigidity of statutory texts and the public's sense of justice. Key decisions in these areas serve as juridical artifacts that not only record traces of judicial courage but also reveal the urgency for a more systematic law-finding framework.

The primary manifestation of this tension is most evident in the handling of narcotics crimes. Law Number 35 of 2009 strictly regulates mandatory minimum sentences for specific offenses, a legislative policy aimed at achieving a maximum deterrent effect. In practice, however, this provision creates a complex judicial dilemma, particularly when dealing with defendants who are addicts or victims of substance abuse. The rigid application of minimum sentences in such cases is often seen as disproportionate and counterproductive to the spirit of rehabilitation (Wibowo & Widiyasmoko, 2021). Consequently, some Judges have opted for judicial activism by imposing verdicts below the minimum threshold set by the law.

A qualitative content analysis of the legal reasoning in these decisions reveals a fundamental shift in interpretative methods. Judges are no longer confined to literal, grammatical interpretation; they are turning to teleological or sociological interpretation. The reasoning constructed is that the primary objective (*telos*) of narcotics legislation is not merely retribution but also healing and social recovery. Thus, when the application of a minimum sentence obstructs the goal of rehabilitation, Judges feel they have the legitimacy to "deviate" from the text to fulfill the higher spirit of the law. As found by Nasrullah (2020), such rulings, while formally injuring the principle of legality, are substantively viewed as an effort to uphold a more humane and recovery-oriented justice.

The second problem that highlights the urgent need for law reform is the phenomenon of sentencing disparity. Disparity, or the inconsistency in sentencing for similar crimes, is a serious anomaly in a system that upholds the principle of equality before the law. A case study by Hardiansyah et al. (2024) involving two defendants in the same customs case revealed that the public prosecutor could file significantly different charges, which could then potentially result in disparate judicial verdicts. This phenomenon indicates that without clear sentencing guidelines, as stipulated in Article 54 of Law Number 1 of 2023, judicial discretion becomes highly susceptible to subjectivity.

This absence of an objective framework compels Judges to perform law-finding on an individual basis in every case to determine a "just" weight for the punishment. However, when this law-finding is conducted without structured principles, the result is not harmonization but inconsistency that can erode public trust. Therefore, sentencing disparity is clear evidence that judicial discretion, if not framed within a coherent concept of law-finding, can itself become a threat to legal certainty (Romdoni & Fitriasih, 2022). It underscores that law-finding is not merely limitless freedom; it is an authority that must be exercised methodologically and accountably.

On the other hand, judicial practice also demonstrates an innovative and progressive manifestation of law-finding, particularly in response to a legal vacuum. The most monumental example is the handling of the justice collaborator case in the premeditated murder trial of Ferdy Sambo. In this case, the panel of Judges was faced with a situation where Law Number 8 of 1981 did not provide a specific reward mechanism for a perpetrator-witness who exposed the crime. This legal vacuum (*rechtsvacuum*) had the potential to obstruct the realization of substantive justice, namely the complete uncovering of the substantive truth.

Facing this legal vacuum, the panel of Judges creatively constructed a "parallel sentencing track" through legal construction. As analyzed by Firmansyah et al. (2025), the Judges did not stop at the limitations of Law Number 8 of 1981. They referenced other sectoral legal instruments, such as Law Number 13 of 2006 and Supreme Court Circular Number 4 of 2011. This action is a classic example of systematic interpretation, where Judges view the legal system as a coherent and complementary whole. By "borrowing" norms from other regulations to fill the void in Law Number 8 of 1981, the Judges not only succeeded in granting significant leniency to Bharada E as the justice collaborator but also affirmed that law-finding can function as an instrument to maintain the relevance and effectiveness of the justice system when confronted with extraordinary cases.

Finally, the paradigm shift toward restorative justice has become fertile ground for the practice of law-finding. Unlike the logic of conventional criminal justice, which focuses on the offender and punishment, restorative justice demands a more holistic approach that involves the victim and the community in the recovery process. This concept inherently cannot be accommodated by rigid legal articles, thus requiring Judges to act as creative facilitators. This practice demands that Judges not only apply the law but also excavate the values of justice living within society (living law), which aligns with the spirit advocated by Laia (2024a).

The implementation of restorative justice in the juvenile criminal justice system, for example, shows how Judges use their discretion to prioritize diversion and avoid stigmatization (Mahmud et al., 2019; Panu et al., 2025). Similarly, in cases involving narcotics users, Judges and prosecutors are now encouraged to prioritize rehabilitation as an alternative to punishment. This practice requires an in-depth, individualized assessment of each case (Lestari et al., 2023). In this context, Judges perform law-finding by reinterpreting the purpose of punishment, shifting from a retributive nature to one that is restorative and rehabilitative.

This comprehensive casuistic analysis convergently confirms that judicial law-finding is no longer a choice; it is a functional necessity in the Indonesian criminal justice system. Whether in the form of "defiance" against norms deemed unjust, efforts to overcome inconsistency, innovation to fill legal vacuums, or adaptation to new paradigms like restorative justice, Judges are consistently required to transcend their traditional roles. These manifestations serve as the most potent empirical justification for the urgency of formulating an ideal concept of judicial law-finding. Such a concept is needed to frame and guide this complex judicial practice. Without a clear framework, the practice of law-finding will remain sporadic, inconsistent, and vulnerable to subjectivity, ultimately failing to achieve its primary goal: the harmonization of legal certainty and substantive justice.

B. Formulating the Ideal Concept of Judicial Law-Finding: A Reconstruction Based on Five Fundamental Principles

The findings from the case analysis, as previously described, unequivocally demonstrate that the current practice of judicial law-finding in Indonesia tends to be *ad hoc*, intuitive, and reactive. Although this approach often yields substantively just outcomes, the absence of a structured methodological framework creates a risk of inconsistency and subjectivity. In response to this gap, and to operationalize the philosophical mandate of Law Number 1 of 2023, this research formulates an ideal concept of judicial law-finding. This concept is not designed as a rigid mathematical formula but rather as a "judicial compass" comprising

five fundamental, interconnected, and dynamic principles: proportionality, transparency and accountability, judicial consistency, social responsiveness, and dynamic equilibrium.

The first principle is proportionality. This principle serves as an internal balancing mechanism that constrains judicial discretion. In the context of law-finding, proportionality demands that the level of judicial intervention in a statutory text must be commensurate with the degree of injustice that would arise if the law were applied literally. A Judge cannot arbitrarily disregard positive law; they must conduct a proportionality test by carefully weighing the urgency of achieving justice in a specific case against the potential negative impact on legal certainty in general. Minimalist interventions (e.g., teleological interpretation) are preferred over radical ones (e.g., legal construction), unless the situation demands otherwise. As detailed by Fatoni et al. (2025), this principle ensures that law-finding remains within rational and measurable bounds, aligning with the noble objectives of the criminal justice system.

The second principle is transparency and accountability. When a Judge decides to move beyond the literal meaning of a norm, they bear a heavier burden of proof to justify their decision. This principle requires the Judge to explicitly and transparently articulate their legal reasoning (*ratio decidendi*) in the decision's considerations. The Judge must explain the interpretative method used, the reasons why a formal application of the law would result in injustice, and how their decision aligns with higher legal principles or the community's sense of justice. This transparency is not merely a matter of decision-writing technique; it is an embodiment of public and professional accountability. In line with the views of Harini and Rahmat (2025), a transparent law-finding process enhances the legitimacy of the verdict, facilitates oversight by higher courts, and fosters public trust in the judicial institution's integrity.

The third principle is judicial consistency. One of the primary critiques of law-finding is its potential to create disparity and undermine the predictability of the law. The principle of judicial consistency is designed to mitigate this risk. Although the Indonesian legal system does not adhere to the principle of binding precedent (*stare decisis*), this principle encourages Judges to seriously consider jurisprudence and previous rulings in similar cases (Firmansyah et al., 2024). The goal is not to follow blindly but to build a coherent body of legal reasoning over time. If a Judge decides to depart from established jurisprudence, they must provide a strong argument (*distinguishing*) that explains why the case at hand has unique characteristics demanding different treatment. Thus, judicial consistency strikes a balance between the flexibility required for individual justice and the stability necessary to maintain legal certainty.

The fourth principle is social responsiveness. This principle recognizes that law does not exist in a vacuum; it is a social product that must remain relevant to the evolving values and needs of society. In performing law-finding, a Judge is required to possess sociological sensitivity and the ability to capture and reflect the living law within the community. As affirmed by Rezah and Muzakkir (2021) and Laia (2024a), acknowledging the living law is a crucial bridge between formal state law and social reality. The principle of social responsiveness legitimizes the consideration of customary norms, local values of justice, and public perception in the legal interpretation process. However, this principle must be applied cautiously to ensure that the accommodated social values do not conflict with the universal human rights principles guaranteed by the constitution (Hartoyo et al., 2023).

The fifth principle, serving as the central pillar that binds the other four, is dynamic equilibrium. This principle rejects the dichotomous view that absolutely opposes legal certainty and substantive justice. Instead, it views them as two fundamental values on a spectrum, engaged in a constant dynamic dialogue. The task of the Judge in every case is to find the optimal "equilibrium point" between these two values, considering all relevant factors presented at trial (Jaya et al., 2022). This balance is not static; in one case, considerations of legal certainty might be more dominant, while in another, the demands of substantive justice may carry greater weight. This principle of dynamic equilibrium is the essence of the art of judging, where the Judge, with wisdom, harmonizes legal values in their most concrete context.

Collectively, these five principles—proportionality, transparency, consistency, responsiveness, and dynamic equilibrium—form a comprehensive methodological framework for judicial law-finding. This ideal concept transforms law-finding from a merely intuitive act into a structured, rational, and accountable judicial process. Guided by these principles, a Judge can systematically navigate the complexities of a case, provide a robust justification for their decision, and ultimately, more effectively execute the mandate of Law Number 1 of 2023: to prioritize justice as the crown of the law itself.

C. The Dialogue between the Ideal Concept and the Reform Spirit of the Penal Code: Implications, Challenges, and Projections

The ideal concept of judicial law-finding, built upon five fundamental principles, is not a theoretical ivory tower isolated from the reality of positive law. On the contrary, this concept was born from and is designed to respond to the new landscape shaped by Law Number 1 of 2023. The introduction of this new codification marks a turning point in Indonesia's criminal law policy, signifying a paradigm shift from rigid legalism to a more humane and justice-oriented approach.

Therefore, an analysis of the points of convergence between the proposed ideal concept and the reformist spirit of Law Number 1 of 2023 is crucial to validate the concept's relevance and affirm the urgency of its implementation.

The first and most fundamental point of convergence lies in Article 53 section (2) of Law Number 1 of 2023. This article explicitly mandates that Judges prioritize justice in the event of a conflict with legal certainty. This provision acts as a fundamental norm (grundnorm), or the philosophical foundation that legitimizes the entire architecture of the ideal five-principle concept. Specifically, this mandate is a legislative affirmation of the Principle of Dynamic Equilibrium. Whereas previously a Judge who prioritized justice was often seen as engaging in "defiance" of the law, such an action is now the very fulfillment of the law's command. As reviewed in depth by Hiariej and Santoso (2025), this article definitively ends the hegemony of juridical positivism and formally invites Judges to become active seekers of justice.

Furthermore, the reformist spirit of Law Number 1 of 2023 provides a strong juridical basis for the Principle of Social Responsiveness. A key innovation in the new Penal Code is the recognition of the living law within society as a source of criminal law. This provision directly resonates with the demand for Judges to be capable of capturing local values of justice and social norms in the law-finding process. This recognition legitimizes Judges to look beyond formal state legal texts to the socio-cultural context in which a criminal event occurs, a view advocated by legal scholars who emphasize the importance of customary law and Pancasila values as legal sources (Selajar & Martha, 2023; Laia, 2024a).

Convergence is also clearly visible between the Principle of Proportionality and the introduction of sentencing guidelines in Article 54 of Law Number 1 of 2023. This article requires judges to consider eleven individual and contextual factors—such as the perpetrator's motive, inner attitude, and the impact on the victim—before imposing a penalty. This obligation implicitly encourages Judges to conduct a proportionality test, wherein the sentence imposed must be commensurate with the overall complexity of the case. These guidelines shift sentencing practices away from a mechanistic "tariff" logic and toward a more personal and just law-finding process, aligning with the shift toward community service and other more humane sentencing alternatives (Laia, 2024b).

Despite this strong convergence, the implementation of the ideal concept of judicial law-finding faces several systemic and cultural challenges (Paramarta, 2018). The first challenge is paradigm resistance from some law enforcement officials who are still influenced by a positivistic-legalistic culture. For decades, the legal education and practice in Indonesia have been dominated by the

thinking that law is synonymous with statutes. Changing this mindset toward a more substantive and flexible approach requires a massive and sustained effort of deconstruction and re-education, not only for Judges but also for prosecutors and investigators.

A second, no less serious, challenge is the capacity and competency of Judges. Applying the five-principle concept requires a Judge to possess multidisciplinary capabilities. It is no longer sufficient for a Judge to master only juridical techniques; they must also have a sociological understanding to apply the principle of social responsiveness, philosophical reasoning for the principle of dynamic equilibrium, and high ethical integrity for the principle of transparency. The greatest risk of premature implementation is the potential for abuse of discretion, which could lead to a "tyranny of the judges" where decisions are made based on mere subjectivity. Therefore, capacity building through continuous education and training is an absolute prerequisite.

The third challenge lies in infrastructure and systemic harmonization. A progressive concept of law-finding in substantive law (Law Number 1 of 2023) will be blunted if not supported by a harmonious procedural law (Law Number 8 of 1981). For example, the rigid evidentiary and legal remedy mechanisms outlined in Law Number 8 of 1981 can hinder the implementation of restorative justice or the handling of complex cases that require flexibility and adaptability. Additionally, infrastructural support is needed, such as a transparent case management system and an easily accessible jurisprudence database, to support the implementation of the principle of judicial consistency.

Nevertheless, amid these challenges, there are also significant opportunities that can be optimized. The first opportunity is the momentum of the reform itself. The enactment of Law Number 1 of 2023 has opened a broad public and academic discourse on the purpose and direction of the criminal justice system. This momentum can be leveraged to push for more holistic reforms, including in legal education institutions, the Supreme Court, and the Judicial Commission, to create an ecosystem conducive to progressive Judges.

The second opportunity comes from technological development and information openness. In the digital era, court decisions are increasingly accessible to the public. Oversight by civil society, academics, and the media can serve as an effective external control mechanism to ensure that law-finding is conducted transparently and accountably. Furthermore, future developments in artificial intelligence could potentially be harnessed as a tool to assist Judges in analyzing jurisprudence and identifying patterns of disparity, thereby supporting judicial consistency.

Ultimately, the dialogue between the ideal concept of judicial law-finding and the reformist spirit of Law Number 1 of 2023 leads to one conclusion: Indonesia stands at the threshold of a new era in its criminal justice system. The projection forward is not a smooth path but a dialectical process that will continue to be marked by the tension between the idealism of reform and the reality of implementation. However, with the solid juridical foundation provided by Law Number 1 of 2023 and a systematic conceptual framework, such as the five-principle concept, the direction of the journey becomes clearer. This transformation, if successfully realized, will not only improve the quality of decisions on a case-by-case basis but will also fundamentally strengthen the legitimacy and dignity of the Indonesian criminal judiciary as the foremost guardian of law and justice.

CONCLUSIONS AND SUGGESTIONS

Based on the results and discussion, it can be concluded that judicial law-finding within the Indonesian criminal justice system has transformed from a discretionary choice into a functional necessity, especially following the enactment of Law Number 1 of 2023. This research confirms that the inherent limitations of written law and the complexity of concrete cases consistently create a tension between the demands of formal legal certainty and the achievement of substantive justice. In response to this issue, this study has successfully formulated an ideal concept of judicial law-finding as its main theoretical contribution. This concept transforms the practice of law-finding from one that was previously intuitive and *ad hoc* into a methodological and accountable judicial process.

This ideal concept is built upon five fundamental and mutually reinforcing principles: (1) proportionality, as a measure of judicial intervention; (2) transparency and accountability, as an embodiment of public responsibility; (3) judicial consistency, as a guardian of legal predictability; (4) social responsiveness, as a bridge to the living law in society; and (5) dynamic equilibrium, as the art of finding the optimal meeting point between certainty and justice. Collectively, these five principles serve as a systematic "judicial compass" to guide Judges in executing the mandate of Article 53 of Law Number 1 of 2023, prioritizing justice. Thus, this research has definitively met its objective of offering an operational framework for Judges in the new era of Indonesian criminal law.

Based on these conclusions, several academic and practical suggestions are proposed. Academically, future research is recommended to conduct empirical testing on the implementation of this ideal five-principle concept. Studies could focus on the quantitative analysis of a larger corpus of court decisions to measure the extent to which the application of these principles correlates with a reduction in sentencing

disparity rates or an improvement in the quality of legal reasoning oriented toward substantive justice.

Practically, two main suggestions are made. *First*, it is recommended that the Supreme Court and the Judicial Commission develop and integrate continuous training and education modules for Judges. These modules should specifically focus on the application of these five fundamental principles. Case study-based and simulation-based training would be highly effective in honing judges' ability to apply the principles of proportionality and dynamic equilibrium in complex trial situations. *Second*, it is suggested that higher legal education institutions update their curricula for criminal law and criminal procedure law to include more in-depth material on the theory and practice of progressive law-finding, in line with the new paradigm introduced by Law Number 1 of 2023. The goal is to prepare a new generation of legal practitioners who are more responsive to the demands of justice.

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