

Abstrak

Tujuan Penelitian ini yaitu untuk mendsikripsikan dan menguraikan mengenai ketentuan dan mekanisme *restorative justice* dalam penyelesaian perkara Tindak Pidana Penganiayaan, menguraikan teori *restorative justice* dalam tatanan hukum pidana Islam, menguraikan mengenai perbandingan *restorative justice* dalam tatanan hukum pidana islam dan sistem hukum pidana di Indonesia.

Metode Penelitian yang digunakan penulis yaitu yuridis normative. Spesifikasi penelitian bersifat deskriptif analitis. Jenis data dikumpulkan melalui data primer dan data sekunder . Teknik pengumpulan data, yaitu dokumentasi dan studi kepustakaan. Penelitian ini menggunakan metode analisis sejarah kualitatif. Teori yang digunakan di dalam penelitian ini yaitu Toeri Restorative Justice, Teori Negara Hukum dan teori Penegakan Hukum Dalam Perspektif Islam

Akibat sistem peradilan pidana yang cenderung *offender oriented*, Solusi yang ditawarkan, yaitu penyelesaian perkara pidana dengan konteks keadilan restorative. *Restorative Justice* merupakan suatu pendekatan yang lebih menitikberatkan pada kondisi terciptanya keadilan dan keseimbangan bagi korban dan pelaku. Hasil penelitian ini diperoleh Ketentuan *restorative justice* dalam penyelesaian perkara Tindak Pidana Penganiayaan diatur di dalam Peraturan Jaksa Agung RI Nomor 15 Tahun 2020 tentang Penghentian Penuntutan Berdasarkan Keadilan restorative. Teori *restorative justice* dalam tatanan hukum pidana Islam menggunakan jarimah qisas diyat yang penentuan pidananya menjadi hak korban dan juga ahli warisnya. Perbandingan *restorative justice* di dalam tatanan hukum pidana islam dan system hukum pidana di Indonesia pada dasarnya prinsipnya sama untuk menciptakan keadilan, yang menjadi pembeda yaitu terdapat batasan ancaman hukuman dan syarat dilaksanakan *restorative justice*, dan ganti kerugian.

Kata Kunci: Hukum Pidana Islam, Penghentian Penuntutan, Kejaksaan, Keadilan Restorative, Tindak Pidana Penganiayaan.

Abstract

The purpose of this study is to describe and describe the provisions and mechanisms of restorative justice in the settlement of cases of the crime of persecution, to describe the theory of restorative justice in the Islamic criminal law order, to describe the comparison of restorative justice in the Islamic criminal law system and the criminal law system in Indonesia.

The research method used by the author is normative juridical. The research specification is descriptive analytical. Types of data collected through primary data and secondary data. Data collection techniques, namely documentation and literature study. This study uses a qualitative historical analysis method. The theory used in this research is the theory of restorative justice, the theory of the rule of law and the theory of law enforcement in an Islamic perspective.

As a result of the criminal justice system which tends to be offender oriented, the solution offered is the settlement of criminal cases in the context of restorative justice. Restorative Justice is an approach that focuses more on the conditions for creating justice and balance for victims and perpetrators. The results of this study obtained that the provisions of restorative justice in the settlement of cases of the Crime of Persecution are regulated in the Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. The theory of restorative justice in the order of Islamic criminal law uses jarimah qisas diyat whose criminal determination is the right of the victim and also his heirs. The comparison of restorative justice in the Islamic criminal law system and the criminal law system in Indonesia is basically the same to create justice, what makes the differences is that there is a limit to the threat of punishment and the conditions for carrying out restorative justice and compensation.

Keywords: Islamic Criminal Law, Termination of prosecution, prosecutors, restorative justice, criminal acts of persecution.