

ABSTRAK

Konsep keadilan restorative justice dinilai efektif dalam penanggulangan permasalahan hukum terutama dalam tindak pidana pencemaran nama baik. Banyaknya korban atas pasal pencemaran nama baik, harus dituntaskan agar hukum tidak digunakan sebagai alat pembalasan dendam (Lex Tallionis). Hukum seharusnya memperhatikan nilai kemanfaatan hukum dan keadilan hukum, agar setiap kepentingan manusia dapat terlindungi. Penelitian ini bertujuan untuk mengetahui urgensi perlunya restorative justice, bagaimana penyelesaiannya serta upaya antisipasi dalam pemberlakuan restorative justice dalam penyelesaian tindak pidana pencemaran nama baik. Penelitian ini juga menggunakan metode normative dan dianalisis menggunakan teknis analisis deskriptif kualitatif. Hasil penelitian diperoleh bahwa terdapat beberapa urgensi penerapan prinsip restorative justice dalam penyelesaian tindak pidana pencemaran nama baik: 1) Tujuan Hukum (etis/keadilan, utilitis/kebahagiaan, ketertiban), 2) Penegakkan Hukum, 3) Hak Asasi Manusia, 4) Kehadiran Negara, 5) Asas Fiksi, 6) Lex samper dabit remidium, 7) Penjara bukanlah solusi, 8) Kekuasaan menjadi panglima dan bukan hukum, 9) Pengakkan prinsip restorative justice pada tingkat penyidikan, penuntutan dan pengadilan. Sedangkan penyelesaian tindak pidana pencemaran nama baik dilakukan dengan penegakkan prinsip restorative justice pada tingkat penyidikan, penuntutan dan pengadilan, dan kritik atas penerapan restorative justice (Penyidikan: Surat Edaran 8/VII/2108, Penuntutan: Perja no 15 tahun 2020, Pengadilan: Surat keputusan direktur jendral badan peradilan umum 1691/DJU/SK/PS.00/12/2020). Upaya Antisipasi dalam tindak pidana pencemaran nama baik antara lain Plea Bargain atau pengakuan bersalah si terdakwa, upaya pemaafan dari korban kepada pelaku, upaya perbaikan oleh pelaku, partisipasi pemangku kepentingan, membuat aturan khusus perihal pelaksanaan restorative justice dalam tindak pidana pencemaran nama baik.

Kata Kunci: Urgensi, Pencemaran Nama Baik, Restorative Justice

ABSTRACT

The concept of restorative justice is considered effective in tackling legal problems, especially in criminal acts of defamation. The defamation case must be resolved so that the law is not used as a means of revenge (*Lex Tallionis*). The law must pay attention to the value of the usefulness of law and justice. So, every human interest can be protected. This study aims to determine the urgency of the need for restorative justice, how the criminal acts of defamation are resolved, and the anticipation efforts in the application of restorative justice in the settlement of criminal acts of defamation. This research also uses normative methods and uses qualitative descriptive analysis techniques. The results showed that there are several urgencies in the application of the principles of restorative justice in the settlement of criminal acts of defamation: 1) Legal purposes (ethical/justice, utility/happiness, order), 2) Law enforcement, 3) Human Rights, 4) State presence, 5) Principles of Fiction, 6) *Lex samper debit remidium*, 7) Prison is not the solution, 8) The power to be commander in chief and not the law, 9) Data on the importance of applying the principles of restorative justice in the settlement of criminal acts of defamation. Meanwhile, the settlement of criminal acts of defamation is carried out by upholding the principles of restorative justice at the level of investigation, prosecution, and court, and criticism of the application of restorative justice (Investigation: Circular Letter 8/VII/2108, Prosecution: Perja no 15 of 2020, Court: Decision letter director-general of the general justice agency 1691/DJU/SK/PS.00/12/2020). Anticipation efforts in criminal acts of defamation include Plea Bargain or the guilty confession of the defendant, efforts to forgive the victim to the perpetrator, efforts to repair by the perpetrator, participation of stakeholders, making special rules regarding the implementation of restorative justice in criminal acts of defamation.

Keywords: Urgency, Defamation, Restorative Justice