

INTISARI

MEDIASI PENAL DALAM UPAYA PENGHENTIAN PENUNTUTAN BERDASARKAN KEADILAN RESTORATIF DI KEJAKSAAN NEGERI PADA DAERAH HUKUM KEJAKSAAN TINGGI DAERAH ISTIMEWA YOGYAKARTA

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Tujuan penelitian ini adalah untuk mengetahui dan menganalisis penerapan prinsip-prinsip mediasi penal oleh Penuntut Umum selaku fasilitator, problematika yang dihadapi dalam penerapan prinsip-prinsip mediasi penal, serta prospek pengaturan dan penerapan prinsip-prinsip mediasi penal dalam upaya Penghentian Penuntutan Berdasarkan Keadilan Restoratif di Kejaksaan Negeri pada daerah hukum Kejaksaan Tinggi Daerah Istimewa Yogyakarta.

Penelitian hukum ini menggunakan jenis penelitian deskriptif, preskriptif, *problem identification*, terapan, dan normatif empiris. Data penelitian menggunakan data primer dan data sekunder, dimana data sekunder meliputi bahan hukum primer berupa peraturan perundang-undangan, dan bahan hukum sekunder berupa buku-buku literatur. Data primer diperoleh melalui wawancara dengan responden dan narasumber, dan data sekunder diperoleh melalui studi Pustaka. Data tersebut kemudian dianalisis menggunakan sifat analisis preskriptif dengan pendekatan dalam penelitian normatif. Kemudian Kesimpulan ditarik menggunakan metode deduktif.

Hasil penelitian menunjukkan bahwa prinsip-prinsip mediasi penal telah diterapkan dalam persyaratan pokok perkara yang dapat dilakukan Penghentian Penuntutan Berdasarkan Keadilan Restoratif yang sejalan dengan kategorisasi perkara yang dapat diselesaikan melalui mediasi penal, dan model mediasi yang dipergunakan yakni Model *Informal Mediation*, dan Model Fasilitasi (*Fasilitative Model*). Sedangkan praktik pelaksanaan Upaya Perdamaian dan Proses Perdamaian belum sepenuhnya menerapkan empat prinsip kerja mediasi penal. Dalam hal ini masih terdapat berbagai permasalahan yang dihadapi, baik dari aspek struktur hukum, substansi hukum, dan kultur hukum. Kedepan prospek pengaturan dan penerapan prinsip-prinsip mediasi penal akan semakin baik, terlihat dari aspek peraturan perundang-undangan, yaitu Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana, Rancangan Kitab Undang-Undang Hukum Acara Pidana, dan Rancangan Perubahan Kedua Undang-Undang tentang Kejaksaan Republik, maupun aspek perencanaan pembangunan nasional.

Kata Kunci: Mediasi Penal, Upaya Perdamaian, Proses Perdamaian

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ABSTRACT

PENAL MEDIATION AS AN EFFORT TO TERMINATE PROSECUTION BASED ON RESTORATIVE JUSTICE AT THE DISTRICT ATTORNEY'S OFFICE WITHIN THE JURISDICTION OF THE HIGH PROSECUTOR'S OFFICE OF THE SPECIAL REGION OF YOGYAKARTA

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The objective of this study is to examine and analyze the application of penal mediation principles by public prosecutors as facilitators, the challenges encountered in implementing these principles, and the prospects for regulating and applying penal mediation principles as a means of terminating prosecution based on restorative justice at the District Attorney's Office within the jurisdiction of the High Prosecutor's Office of the Special Region of Yogyakarta.

This legal research employs descriptive, prescriptive, problem identification, applied, and empirical normative approaches. The data used in this research consist of both primary and secondary sources. Secondary data include primary legal materials such as statutory regulations and secondary legal materials such as literature and textbooks. Primary data were obtained through interviews with respondents and informants, while secondary data were collected through literature study. The data were then analyzed using a prescriptive analysis approach within normative research, and conclusions were drawn using a deductive method.

The findings indicate that the principles of penal mediation have been applied in determining the essential requirements of cases eligible for termination of prosecution based on restorative justice. These requirements align with the categorization of cases suitable for resolution through penal mediation, using the Informal Mediation Model and the Facilitative Model. However, in practice, the implementation of reconciliation efforts and the reconciliation process has not fully adhered to all four core principles of penal mediation. Various issues remain, particularly in terms of legal structure, legal substance, and legal culture. Looking ahead, the prospects for regulating and implementing penal mediation principles are increasingly promising, as reflected in statutory developments, including Law Number 1 of 2023 on the Criminal Code, the Draft Criminal Procedure Code, the Second Amendment Draft of the Law on the Attorney General's Office, and national development planning initiatives.

Keywords: Penal Mediation, Reconciliation Efforts, Peace Process

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