

Restorative Justice Principle Needs to be Reformulated

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Reformulation of restorative justice principle in Indonesian criminal law needs to be made, especially on Book I of Indonesian Criminal Code as general rule of criminal law enforcement.

“Reformulation of restorative justice principle in Indonesian criminal law in RUU KUHP needs to be done in the future,” said judge in Ketapang District Court, Hendra Kusuma Wardana, S.H., M.H., during his doctoral promotion at Faculty of Law UGM on Friday (9/2).

Hendra said reformulation of restorative justice principle in future Indonesian criminal law show some indicators towards criminal justice which puts first the balance of state interest, society, and victims. This serves as a model that reflects ideology value and socio-cultural value of Indonesian society which is harmonious and balanced as stipulated in the state ideology of Pancasila.

Thus, Hendra said, it needs addition of regulation to issues such as the limit of implementation of restorative justice principle. Also, regulation of reconciliation agreement in writing as a form of settlement of criminal case outside the process so that it can be formulated as the legal basis for the authority of prosecutors which is getting void.



Hendra said reformulation of restorative justice principle in formal criminal law in Indonesia is based on the goal of prioritising balanced interests among society. Thus, regulation is also needed such as recognition in the state constitution of customary law community and laws that are existing in society.

Hendra explained regulation is also necessary, remembering the opportunity of implementing discretion at the investigation and prosecution phase. The implementation of restorative justice principle in the process of criminal law enactment can be constructed in the form of discretion by police or prosecutors in the pre-trial phase.

In the trial phase, the panel of judges, he said, may reconcile the perpetrator and victim. If a reconciliation takes place, this can be made a consideration in relation with the idea of clemency ruling by the judges.

“In the phase of criminal enactment, the restorative justice principle can be realised in the terms implementation rules to follow rehabilitation programme in line with the type of act of crime committed by the perpetrator,” he said.

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