

Pelanggaran Kesepakatan Restorative Justice sebagai Dasar Pemberat Pidana pada Tindak Pidana Kekerasan dalam Rumah Tangga (Studi Kasus: Putusan-Putusan Kekerasan dalam Rumah Tangga di Mahkamah Militer) = Violation of the Restorative Justice Agreement as the Base of Criminal Breakage on Criminal Acts of Domestic Violence (Case Study: Decisions on Domestic Violence in the Military Court)

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Abstrak

Tingkat kekerasan dalam rumah tangga di Indonesia masih tergolong tinggi. Upaya penyelesaian perkara kekerasan dalam rumah tangga juga dilakukan dengan menggunakan restorative justice, konsep tersebut juga dilakukan di lingkungan Peradilan Militer. Penyelesaian perkara kekerasan dalam rumah tangga dinilai lebih baik diselesaikan melalui restorative justice daripada penggunaan pemidanaan, penyelesaian menggunakan restorative justice dipandang mampu untuk mempertahankan keutuhan rumah tangga. Namun ditemukan beberapa kasus pelanggaran kesepakatan restorative justice, dimana pelaku kembali melakukan kekerasan. Tujuan penelitian ini adalah untuk mengetahui proses penyelesaian perkara kekerasan dalam rumah tangga di Peradilan Militer, mengetahui penerapan restorative justice pada perkara kekerasan dalam rumah tangga di lingkungan Militer, mengetahui kedudukan pelanggaran kesepakatan restorative justice dan pertimbangan Hakim dalam memutus perkara KDRT. Penulis melakukan penelitian dengan menggunakan metode yuridis normatif. Hasil penelitian menemukan bahwa penyelesaian perkara kekerasan dalam rumah tangga di Peradilan Militer, setelah Anjum menerima laporan terjadinya kekerasan dalam rumah tangga selanjutnya Anjum menyerahkan perkara tersebut ke polisi militer, kemudian Polisi Militer melakukan penyidikan, setelah berkas lengkap berkas perkara diserahkan ke Oditur Militer, Oditur Militer melengkapi berkas dan melimpahkan ke Papera, Papera menyerahkan perkara ke Pengadilan, Pengadilan memeriksa dan mengadili perkara. Penerapan restorative justice pada perkara kekerasan dalam rumah tangga di Militer dilakukan oleh Anjum dalam hal perkara tersebut merupakan delik aduan, dan adanya kesediaan para pihak untuk menyelesaikan perkara melalui mediasi. Pelanggaran kesepakatan restorative justice pada tindak pidana kekerasan dalam rumah tangga berupa pengulangan tidak memiliki kedudukan yang sama dengan recidive, hal ini dikarenakan di Indonesia menganut recidive khusus. Hakim menilai bahwa apabila terjadi pelanggaran kesepakatan restorative justice berupa pengulangan kekerasan dalam rumah tangga dijadikan pertimbangan untuk dijadikan dasar pemberat sanksi pidana di luar Undang-Undang.

.....The level of domestic violence in Indonesia is still relatively high. Efforts to resolve cases of domestic violence are also carried out using restorative justice, this concept is also carried out within the Military Court environment. Settlement of cases of domestic violence is seen as better resolved through restorative justice than the use of punishment, settlement using restorative justice is seen as being able to maintain the integrity of the household. However, several cases of violations of restorative justice agreements were found, where the perpetrators returned to violence. The purpose of this research is to find out the process of resolving cases of domestic violence in the Military Court, to know the position of repetition of domestic violence, to know the application of restorative justice in cases of domestic violence in the Military environment and the Judge's considerations in deciding cases. The author conducted research using

normative juridical methods. The results of the study found that the settlement of domestic violence cases was in the Military Court, after Ankum received reports of domestic violence then Ankum handed over the case to the military police, then the Military Police conducted an investigation, after the complete case files were submitted to the Military Prosecutor, the Military Prosecutor completed the file and handed it over to Papera, Papera submitted the case to the Court, the Court examined and tried the case. The application of restorative justice in cases of domestic violence in the military is carried out by Ankum in the event that the case is a complaint offense, and there is a willingness of the parties to resolve the case through mediation. Violation of restorative justice agreements on domestic violence crimes in the form of repetition does not have the same status as recidive, this is because Indonesia adheres to special recidive. The judge considers that if there is a violation of the restorative justice agreement in the form of repetition of domestic violence it is used as a consideration to be used as a basis for weighting criminal sanctions outside the law.