

Policy for Formulation of Social Media Applications on Future Criminal Offenses

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ABSTRACT

The purpose of this thesis is to analyze the policy formulation requested through social media as an effort to resolve criminal acts outside the criminal justice system in the future. that exist in normative or doctrinal research methods, namely research using primary legal materials, secondary legal materials, and tertiary legal materials.

According to the results of this study, it shows that the settlement of cases by apologizing through social media for criminal acts, still does not have definite and comprehensive regulations, so that each criminal justice sub-system resolves criminal cases by means of restorative justice based on its own initiative. In the future, it is hoped that the settlement will be through restorative justice so that the agenda must be carried out by the criminal justice sub-system starting from the Police, the Prosecutor's Office and the Court to resolve it first, with one example being giving the perpetrator the opportunity to request via social media.

KEYWORDS: *Formulation of Policy Apologies, Offense of Humiliation, Restorative Justice, Future*

1. Background of the Problem.

Social media is a tool for disseminating information globally, a mechanism for disseminating information and a medium for collaborating and interacting between individuals using computers without being hindered by geographical boundaries. Today the use of social media such as Facebook, Twitter, Youtube, Instagram and the like along with the growing number of social media is being responded to by an increasing number of users (users) which indicates the high public interest in the use of technology. In addition to having various positive sides to its use as a communication channel, social media is also known for its downside associated with short, amateurish and sometimes controversial videos. The factor of the rapid spread of information makes many things that in a short time become viral and can be known throughout Indonesia. Viral things that often happen are not always positive. Often people consciously or unconsciously make a mistake that becomes viral on the internet. In society, conflicts that arise as a result of the life relations between community members are generally sought to be resolved through deliberation

and peace so as not to cause resentment, shame, guilt, or which can lead to new conflicts.

The whole process of conflict resolution is pursued solely so that the balance and peace of the community is restored. Peaceful settlement of conflicts and disputes is a means of resolving conflicts (disputes/cases) which is in line with the Restorative justice approach that has long been applied by the legal community, even in customary law in Indonesia. Often it is assumed that the problem will be solved just like that.

Criminal cases in principle cannot be resolved through a restorative justice process, but in practice often criminal cases, especially regarding insults, are resolved through a mediation process which is an initiative of law enforcement as a part of the settlement of the case. Thus, in reality mediation can actually be carried out in the Criminal Justice System. This mediation is known as Penal Mediation.

The basic idea of an alternative settlement of cases in criminal cases is related to the nature of criminal law

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itself. Van Bemmelen put forward the opinion that criminal law is an ultimium remedium, there should be restrictions, meaning that if other parts of the law are not sufficient to affirm the norms recognized by law, then criminal law is applied. The criminal threat must remain an ultimium remedium (last resort). This does not mean that the criminal threat will be abolished, but always must consider the pros and cons of the criminal threat, and must take care not to let the medicine given be more evil than the disease.

Moeljatno said that "criminal law is classified in the category of public law, which relates to the relationship between the state and individuals or the public interest." Another opinion was conveyed by Andi Zainal Abidin who said that "Most of the rules in criminal law are public law, some are mixed with public law and private law, have special sanctions because their nature exceeds sanctions in other legal fields, stands alone and sometimes create new rules whose nature and purpose are different from existing legal rules.

Normatively, the criminal justice system is aimed at law enforcement. The system is an operational tax system with statutory provisions in order to overcome crime to produce legal certainty. The implementation of social defense can be facilitated by the criminal justice system in order to realize better social welfare. Social aspects based on expediency should be considered by the criminal justice system. This criminal justice system is intended to reduce recidivism and crime in the short term. Meanwhile, in the long term, the criminal justice system is intended to create better social welfare in the future. If this goal cannot be realized, then there is an irregularity in the justice system that has been implemented.

Along with the rapid development of the use of social media, which reached 191 million people, which reached 88.7% (eighty eight point seven percent) of all people in Indonesia, it can be said that almost everyone nowadays uses social media. The number of social media users today which reaches 88.7%, in this case it can be stated that social media is a new world where almost everyone is in it. In fact, not a few people can interact with other people even across countries without ever meeting the original person.

In the regulations of the Chief of Police and the Regulations of the Prosecutor's Office, apologies and also the settlement of cases through restorative justice have been submitted, but these regulations only apply to each institution in accordance with their respective regulations. Both the regulation of the Chief of Police and the Regulation of the Prosecutor, only contain mechanisms in terms of settlement of cases, but so far there is no regulation that covers all sub-systems of

the Criminal Justice as a whole regarding the settlement of cases through restorative justice.

In this case, there will be an imbalance between the regulations of each sub-system of criminal justice because there is no one legal umbrella that is binding and comprehensive for all sub-systems of criminal justice at this time. The problem faced by law enforcement in our country is that there is no legal forum for resolving criminal cases through mediation. The legal doctrine that still applies is that criminal cases cannot be mediated. The criminal justice process is a laboratory of common sense because it examines the truth of legal facts with the eyes of law and conscience to produce truth and justice for perpetrators and victims.

When it comes to resolving cases of apologies through social media for acts of humiliation, in this case the theory of restorative justice which still does not have regulations so that, if a case of insult, is expected to become a mandatory agenda for the criminal justice sub-system, starting from the Police, the Prosecutor's Office and the Court to resolve it first, with one example being giving the perpetrator the opportunity to apologize through social media.

2. Formulation of the Problem.

Based on the background of the problem above, it can be formulated a formulation of the problem to be studied;

- How does positive criminal law regulate efforts to settle cases of criminal offenses?
- What is the policy for formulating an apology through social media as an effort to resolve criminal offenses outside the criminal justice system in the future?

3. Research Objectives.

3.1. Theoretical Objectives:

- To analyze efforts to resolve cases of criminal offenses based on positive criminal law in Indonesia
- To analyze the policy of apology formulation through social media as an effort to resolve criminal acts of humiliation outside of criminal justice in the future

3.2. Practice Objectives

- As a contribution of thought for the development of science for academics and legal researchers as well as for the development of the law for the settlement of criminal cases of humiliation based on positive criminal law in Indonesia.
- As a contribution of thought regarding the apology formulation policy through social media as an effort to resolve criminal acts of humiliation outside criminal justice in the future

4. Research Review.

4.1. Theoretical Review

4.1.1. Benefit Theory

The purpose of law is to administer justice and order as a condition for bringing prosperity and happiness, so that the assessment of whether or not a law is good or bad depends on whether the law gives happiness to humans or not. Thus, it means that every preparation of legal products (laws and regulations) should always pay attention to the legal purpose, namely to provide as much happiness as possible for the community. There is an assumption that the purpose of law is peace, justice, usefulness (benefit), legal certainty and so on. All of this shows that law is a symptom of society.

In essence, according to this theory, the purpose of law is the benefit in producing the greatest pleasure or happiness for a large number of people. The observer of this theory is Jeremy Bentham, a one-sided theory so that Utrecht in response to this theory put forward three things, namely:

1. Does not provide a place to consider the concrete things fairly.
2. Only pay attention to things that are useful and therefore the content is general.
3. Very individualistic and does not give to one's legal feelings.

4.1.2. Restorative Justice Theory.

Restorative justice is a settlement process carried out outside the criminal justice system by involving victims, perpetrators, families of victims and perpetrators, the community and parties with an interest in a crime that occurred to reach an agreement and settlement. Restorative justice is a fair settlement that involves the perpetrators, victims, their families and other parties involved in a crime, jointly seeking a solution to the crime and its implications, by emphasizing recovery and not retaliation.

Restorative justice or known as "reparative justice" is an approach to justice that focuses on the needs of the victims, perpetrators of crime, and also involves community participation, and does not merely fulfill legal provisions or merely impose criminal. In this case victims are also involved in the process, while criminals are also encouraged to take responsibility for their actions, namely by correcting the mistakes they have made by apologizing, returning money stolen, or by performing community services. Restorative justice aims to empower victims, perpetrators, families, and communities to correct an act against the law by using awareness and conviction as a basis for improving community life, explaining that the concept of restorative justice is basically

simple. Restorative justice is a theory of justice that emphasizes the recovery of losses caused by criminal acts.

4.2. Concept Overview.

4.2.1. Formulation Policy.

The problem of overcoming crime in society, of course, cannot be separated from the context of discussions on criminal policy. Criminal policy is a rational effort of society to prevent crime and react to crime. This rational effort is a logical consequence, because according to Sudarto, in carrying out politics, people make judgments and make choices from the many alternatives they face.

The formulation policy in the settlement of criminal acts cannot be separated from criminal policies whose main purpose is the protection of the community to achieve public welfare. Thus it can be said that criminal policy is essentially also an integral part of social politics. In social crimes that have an impact that can disturb the community, to overcome a problem in criminal policy, it can be done by means of penal or non-penal means. Meanwhile, through non-penal means, it can prevent the occurrence of evil acts by providing views to the public regarding a crime and the penalties that apply to the perpetrators of the crime.

Policies or efforts to overcome crime are an integral part of efforts to protect the community (social defense) and efforts to achieve community welfare. Therefore, it can be said that the ultimate goal of criminal politics is the protection of society. Criminal politics is also an integral part of social politics (ie policies or efforts to achieve social welfare).

4.2.2. Crime of Humiliation.

The insult itself has been explained in Article 310 paragraph (1) WvS (Wetboek van Straftrecht), which reads "Anyone who intentionally attacks someone's honor or reputation by accusing someone of something, which means it is clear so that it is known to the public, is threatened with libel with imprisonment. a maximum of nine months or a maximum fine of four thousand five hundred rupiah. Article 310 paragraph (2) of the same book also explains "If this is done with writing or an image that is broadcast, displayed, or posted in public, then the threat of written libel with a maximum imprisonment of one year and four months or a maximum fine of four thousand five hundred rupiah.

The ITE Law regulates prohibited acts in the form of insults and defamation in Article 27 paragraph (3), which reads "everyone intentionally and without rights distributes and/or transmits and/or makes Electronic Information and/or Documents data

accessible. Electronics that have insulting and/or defamatory content.” Historically, the provisions of Article 27 paragraph (3) of the ITE Law refer to the Criminal Code (KUHP), Article 310 and Article 311.

4.2.3. Social Media.

Social media is used by enabling users to easily join, share and create content including blogs, social networks, wikis, forums and virtual worlds. Social media is also referred to as an online discourse facility where users can be creative, such as filling out content, sharing it, and broadcasting it on the internet. Some examples of social media that are most often used today are YouTube, Instagram, Twitter, and Facebook.

Cyber Law is a legal term related to the use of information technology. Cyber law that applies in Indonesia is the Republic of Indonesia Law No. 11 of 2008 concerning Information and Electronic Transactions (hereinafter abbreviated as UU ITE). Based on Article 1 of the ITE Law, it is stated that Electronic Information is one or a set of electronic data, including but not limited to writing, sound, pictures, maps, designs, photographs, electronic data interchange (EDI), electronic mail (electronic mail), telegram, telex, telecopy or the like, processed letters, signs, numbers, Access Codes, symbols, or perforations that have meaning or can be understood by people who are able to understand them. Based on the contents of this article, it can be concluded that electronic information has a very broad and complex range of meanings.

In this ITE Law, it is explained and emphasized in Article 5 that it recognizes the existence of electronic evidence. Talking about this electronic evidence, besides the ITE Law, there are also RI Law no. 8 of 1997 concerning Company Documents. From these existing rules, it can be concluded that electronic evidence can be used as legal evidence and has been recognized as evidence.

RESEARCH METHODS

In making a scientific work, especially legal research, it is required to use legal research methods. Legal science strives to present law integrally in accordance with the needs of legal studies, so research methods are needed to obtain a comprehensive research direction. The research method is a systematic step in a research and a must in scientific writing. This research is a normative or doctrinal legal research, which is a research conducted by examining library materials or secondary data. The data sources of this research are secondary data in the form of primary legal materials, namely laws and regulations relating to restorative justice; secondary legal materials, namely books, electronic journals, articles and

relevant papers related to restorative justice; as well as tertiary legal materials such as legal dictionaries.

The technique of collecting legal materials is done through literature study by reviewing literature such as books, journals, articles, and electronic data as well as reviewing regulations to answer legal problems. The analysis of legal materials in this study uses a qualitative descriptive approach, namely legal materials obtained and collected, then qualified, connecting theories related to problems, drawing conclusions to determine results and recommendations related to business competition law in Indonesia, especially the relevant market aspect.

DISCUSSION

A. Apology Against Through Social Media Against Criminal Acts of Humiliation in Positive Criminal Law

The restorative justice approach is present as an alternative mechanism for resolving criminal cases, which is expected to cover the deficiencies in the criminal justice system by involving the participation of victims and perpetrators directly. Customary courts are important in the life of national law. The restorative justice approach in the application and enforcement of the law, is a theoretical and philosophical bridge, to make the legal values that live in society, as the basis for the legitimacy of the development and functioning of the law, judiciary and customary judges, in the distribution of justice.

Restorative justice in principle is a philosophy (basic guideline) in the peace process outside the judiciary by using mediation or deliberation in achieving a justice that is expected by the parties involved in the criminal law, namely the perpetrators of criminal acts (his family) and victims of criminal acts (his family) to find the best solution agreed and agreed upon by the parties. Restorative justice is said to be a philosophy (basic guideline) in achieving justice carried out by parties outside the judiciary because it is the basis of the peace process for the perpetrators of criminal acts (his family) and victims (his family) due to the emergence of victims/losses from these criminal acts.

Apologies are words of apology conveyed by the perpetrator/violator or an innocent party. In practice, the guilty party is usually the first to apologize to the innocent party. If the innocent party forgives, then their dispute/dispute is over.

The peace procedures carried out on social media are various, such as explaining an apology which has been done beforehand or writing on social media, or also often holding meetings and dialogues that are broadcast or known as steaming through social media as a sign that between the perpetrator and the victim

peace efforts are underway and are widely known. Apart from the restorative aspects as an effort to add to various losses or failures in the enforcement of criminal law, according to Bagir Manan, some notes need to be added. First, restorative justice can only be carried out on perpetrators who recognize or are known to be perpetrators of carrying out the principles of restorative justice, because restorative justice requires the participation of the perpetrators. Even if it can be done, the person concerned must be the perpetrator, except in certain circumstances such as the perpetrator dies, or is outside the jurisdiction of the country concerned. Second, namely the extent to which restorative justice can be carried out, namely regarding the magnitude of the incident or criminal act that occurred, of course, not all crimes are committed. Criminal cases can be resolved through restorative justice.

The Supreme Court, the Attorney General's Office, and the Indonesian National Police make further regulations for each institution as a guideline for resolving criminal cases with the principles of restorative justice, including:

1. Circular Letter of the Head of the National Police of the Republic of Indonesia Number SE/8/VII/2018 Year 2018 concerning the Application of Restorative Justice in the Settlement of Criminal Cases (SE Kapolri 8/2018");
2. Regulation of the Head of the State Police of the Republic of Indonesia Number 6 of 2019 concerning Criminal Investigations.

In addition to the above, the Public Prosecutor in Termination of prosecution based on Restorative Justice is also carried out by considering:

- A. subject, object, category, and threat of criminal act;
- B. the background of the occurrence of the crime;
- C. the degree of disgrace;
- D. losses or consequences arising from criminal acts;
- E. costs and benefits of handling cases;
- F. restoration back to its original state; and
- G. the existence of peace between the victim and the suspect.

Article 5 paragraph (2) also states that the conditions for termination of prosecution are;

1. Is a suspect who has committed a crime for the first time
2. And one of the following two reasons
 - A. Criminal acts are only threatened with or the threat of imprisonment is not more than 5 (five) years; or
 - B. Criminal acts with the value of evidence or losses arising from the crime of not more than Rp.

2.500,000,000,- (two million five hundred thousand rupiah)

Therefore, if it is drawn from the type of criminal level, then the crime of humiliation is a multilevel crime, namely mild, moderate, and severe. It was concluded that the criminal act of humiliation was in accordance with the threat of punishment in accordance with the following articles:

1. Minor insults in accordance with Article 315 of the Criminal Code with a maximum penalty of 4 (four) months 2 (two) weeks
2. Moderate humiliation according to article 310 (1) of the Criminal Code with a maximum threat of 9 (nine) months
3. Serious humiliation in accordance with Article 310 (2) of the Criminal Code with a maximum threat of 1 (one) year 4 (four) months

It can be concluded that the insults in accordance with Article 310 (1) of the Criminal Code, 310 (2) of the Criminal Code, and 315 of the Criminal Code have met the requirements of Article 5 paragraph (2) of Perjaya to discontinue prosecution with the principle of restorative justice, in which there is no threat of punishment exceeding a maximum five (5) years.

In the regulations of the Chief of Police and the Regulations of the Prosecutor's Office, apologies and also the settlement of cases through restorative justice have been submitted, but these regulations only apply to each institution in accordance with their respective regulations. Both the regulation of the Chief of Police and the Regulation of the Prosecutor, only contain mechanisms in terms of settlement of cases, but so far there is no regulation that covers all sub-systems of the Criminal Justice as a whole regarding the settlement of cases through restorative justice. In this case, there will be an imbalance between the regulations of each sub-system of criminal justice because there is no single legal umbrella that is binding and comprehensive for all sub-systems of criminal justice at this time. The problem faced by law enforcement in our country is that there is no legal forum for resolving criminal cases through mediation. The legal doctrine that still applies is that criminal cases cannot be mediated. The criminal justice process is a common sense laboratory because it examines the truth of legal facts with the eyes of law and conscience to produce truth and justice for perpetrators and victims.

When it comes to resolving cases of apologies through social media for acts of humiliation, in this case the theory of restorative justice which still does not have regulations so that, if a case of insult, is expected to become a mandatory agenda for the criminal justice sub-system, starting from the Police,

the Prosecutor's Office and the Court to resolve it first, with one example being giving the perpetrator the opportunity to apologize through social media.

The settlement of criminal cases outside the Court that is currently running is still very lagging behind when compared to diversion, in which diversion must be carried out first at every level of examination of juvenile criminal cases, although basically diversion still has shortcomings, namely focusing on whether or not the victim is willing to forgive the crime. children as criminals

B. Apology Formulation Policy Through Social Media as an Effort to Settle Offenses Outside Criminal Courts in the Future

Policy or in English is known as "policy" and in Dutch it is known as "politiek". In general, the notion of policy as a substitute for the term "policy" or "belied" specifically meant in the sense of "wijsbeleid", according to Robert R. Mayer and Ernest Greenwood, can be formulated as a decision that outlines the most effective and efficient way to achieve goals. collectively determined. Justice is not sui generis, for it relies entirely on social utility as its foundation. Therefore, all the rules of justice, including equality, can be subject to the demands of expediency; "Everyone believes that equality is the principle of justice, unless he thinks his methods require inequality." Whatever brings the greatest good to all can be called "just."

Politics or criminal law policies can be said to be part of law enforcement policies. In addition, efforts to combat crime through the making of criminal laws (laws) are essentially also an integral part of social welfare efforts.

According to Sudarto, legal politics are:

1. Efforts to realize good regulations in accordance with the circumstances and situations at a time;
2. Policy from the state through the competent bodies to determine the desired regulations that are expected to be used to express what is aspired.

Criminal law policy is essentially an attempt to realize criminal legislation in accordance with the circumstances at a certain time (*iusconstitutum*) and the future (*iusconstituendum*). The logical consequence is that criminal law policy is identical with penal reform in a narrow sense, because as a system, law consists of culture (cultural), structure (structural), and substance (substantive) law.

Criminal law policy which is often referred to as crime prevention has three stages, namely:

1. Formulation stage (legislative policy); namely how the criminal law is formulated.

2. Application stage (judicial policy); namely how the criminal law that has been formulated is applied/enforced.
3. Execution stage of criminal implementation (executive policy); namely how the criminal law is carried out and implemented.

In order to achieve the legal objectives, a Draft Criminal Code will be drawn up which is the result of the thoughts of the Indonesian people. The preparation of the Draft Criminal Code in the future is expected to target 4 (four) things, namely:

- A. Crime prevention and control;
- B. Improvements to perpetrators;
- C. Prevention of arbitrary acts outside the law; and;
- D. Conflict resolution in society.

Mahfud MD, as the Coordinating Minister for Political, Legal and Security Affairs in the Public Discussion of the Criminal Code Bill on June 21, 2021, said that the length of time for discussion since 1963 and the preparation was due to the resultant agreement between stakeholders who have diverse opinions and represent different interests. In the context of the criminal justice system with the main stakeholders in the Police, Prosecutors and Courts. The success of the application of the concept of restorative justice depends on the accuracy of the determination of personalism, the formulation of reparations, the reintegration process and the full participation of the parties.

The purpose of punishment oriented to restorative justice:

- A. prevent the commission of criminal acts by enforcing legal norms for the protection and protection of the community;
- B. socialize the convicts by conducting coaching and mentoring so that they become good and useful people;
- C. resolve conflicts caused by criminal acts, restore balance, and bring a sense of security and peace in society; and
- D. cultivate a sense of remorse and free the guilt of the convict.

In the concept of Living Law;

- A. Recognition of the living law in society or the living law,
- B. However, there are conditions:
 1. Does not conflict with the values of Pancasila, the Constitution, Human Rights and general legal principles recognized by civilized society
 2. limited only to minor crimes whose punishment is equivalent to a Category 1 Fine (1 million rupiah)

The legality principle formally in the Draft Criminal Code is still in line with the legality principle in the

current Criminal Code. Article 1 Paragraph (1) of the Draft Criminal Code states: "No action can be sanctioned except for the strength of the criminal regulations in the existing laws and regulations before the act was committed".

Then in Article 2 Paragraph (1) of the Draft Criminal Code, the principle of material legality is regulated which reads: "The provisions as referred to in Article 1 paragraph (1) do not reduce the enactment of the law that lives in society which determines that a person deserves to be punished even though the act is not regulated in laws and regulations."

Article 2 paragraph (2) of the bill states that: "The law that lives in society as referred to in paragraph (1) applies in the place where the law lives as long as it is not regulated in this law and in accordance with the values contained in Pancasila, the 1945 Constitution of the Republic of Indonesia (UUD NRI). 1945), human rights, and general legal principles recognized by civilized society".

Then Article 598 Paragraph (1), states: "Every person who commits an act according to the law who lives in society is declared a prohibited act, is threatened with a punishment."

The law that lives in society, especially customary law, does not distinguish between criminal and civil acts, there is no difference whether the act was carried out intentionally (opzet) or carried out due to negligence (culpa), all of these elements become one and comprehensive which is a series of events. which disturbs the balance of society. Even for violations of customary law, it has its own enforcement mechanism and sanctions that are not formal and material.

Restorative Justice Approach in the Draft Criminal Code

Updates in the regulated punishment, among others, relate to:

- A. Living law
- B. Guidelines and purposes of punishment
- C. Social work crime
- D. Criminal surveillance
- E. Court pardon (judicial pardon)

Court forgiveness, known as judicial pardon in other countries which refers to;

- A. The lightness of the deed,
- B. The perpetrator's personal circumstances, or
- C. the circumstances at the time the crime was committed as well as what happened afterwards,
- D. can be used as a basis for consideration for
- E. does not impose a penalty or
- F. not wearing action

- G. taking into account the aspects of justice and humanity.

The restorative justice approach in the RKUHP then expects the following implications;

- A. The role of law as an effort to resolve conflicts is prioritized
- B. Efforts to reconcile between perpetrators and victims
- C. Avoid imprisonment as far as possible through alternative imprisonment
- D. Oriented to victims because of the suffering they have experienced (eg through recovery, compensation or possibly reconciliation)
- E. Perpetrators are expected to realize responsibility for their mistakes and prevent them from happening again in the future (recurrence).
- F. For restorative justice countries, it is hoped that they can limit cases that accumulate in the SPP (backlog of cases) and reduce the burden of SPP, in particular reducing prison overcrowding.

Future efforts;

- A. Building an understanding of restorative justice both for the Criminal Justice Sub-system and for the wider community
- B. Conduct education and training for the Criminal Justice Sub-system
- C. Building a public information system that makes it easier for the public to know more about restorative justice
- D. Building a criminal law system and criminal procedure that opens up space for a restorative justice approach
- E. Encourage academics and CSOs to conduct more in-depth research on the restorative justice approach in customary law that is still ongoing, and also regarding the implementation of restorative justice for the juvenile criminal justice system.

CLOSING

1. CONCLUSION

- A. Settlement of cases by apologizing through social media for acts of humiliation, in this case the theory of restorative justice which still does not have definite and comprehensive regulations, so that each criminal justice sub-system resolves criminal cases by means of restorative justice based on to law enforcement initiatives themselves.
- B. If there is an insult case, it is hoped that it will become a mandatory agenda for the criminal justice sub-system starting from the Police, the Prosecutor's Office and the Court to resolve it first, with one example being giving the perpetrator an opportunity to apologize via social

media. The settlement of criminal cases outside the Court that is currently running is still very lagging behind when compared to diversion, in which diversion must be carried out first at every level of examination of juvenile criminal cases, although basically diversion still has shortcomings, namely focusing on whether or not the victim is willing to forgive the crime. children as criminals

2. SUGGESTIONS

- A. Settlement of cases by way of apologies through social media for acts of humiliation, in this case the theory of restorative justice which still does not have definite and comprehensive regulations, so that each sub-system of criminal justice conducts settlement of criminal cases by means of restorative justice is based on law enforcement initiatives themselves.
- B. If there is an insult case, it is hoped that it will become a mandatory agenda for the criminal justice sub-system starting from the Police, the Prosecutor's Office and the Court to resolve it first, with one example being giving the perpetrator the opportunity to apologize through social media.

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- [6] Surat Edaran Kepala Kepolisian Negara Republik Indonesia Nomor SE/8/VII/2018 Tahun 2018 tentang Penerapan Keadilan Restoratif dalam Penyelesaian Perkara Pidana (SE Kapolri 8/2018”);
- [7] Peraturan Kepala Kepolisian Negara Republik Indonesia Nomor 6 Tahun 2019 tentang Penyidikan Tindak Pidana (Perkapolri 6/2019);
- [8] Peraturan Kejaksaan Republik Indonesia Nomor 15 Tahun 2020 tentang Penghentian Penuntutan Berdasarkan Keadilan Restoratif (Perkejaksaan15/2020);
- [9] Keputusan Direktur Jendral Badan Peradilan Umum Mahkamah Agung Republik Indonesia Nomor 1691/DJU/SK/PS.00/12/2020 tentang Pemberlakuan Pedoman Penerapan Keadilan Restoratif (Kepdirjenbadilum 1691/2020).