

THE LIVING LAW'S RESTORATIVE JUSTICE: IMPLEMENTATION OF RESTORATIVE JUSTICE AS AN INTEGRATIVE MECHANISM IN CRIMINAL LAW

Henny Saida Flora
Catholic University
hennysaida@yahoo.com

ABSTRACT

The urgency of this research is the application of local value-based RJ in the community as an integrative mechanism in efforts to resolve disputes or conflicts in the community. This study aims to answer two legal problems, namely: the urgency of implementing RJ by adopting living law in society and the formulation of RJ implementation as an integrative mechanism that adopts living law in society as an effort to settle criminal law. This research is normative legal research by optimizing conceptual and statutory approaches. The results of the study confirm that the urgency of implementing RJ by adopting living law in society is expected so that the criminal justice system in Indonesia can run and be enforced effectively because it is based on living law which originates from people's personalities. The formulation of the application of RJ as an integrative mechanism in the criminal law settlement process is to reform the criminal procedural law through the revision of the Criminal Procedure Code by including the RJ substance which facilitates living law in society. However, because the process of revising the Criminal Procedure Code takes a long time, a transitional legal product can be formed in the form of a SKB RJ which substantially contains the principles, basis and practice of implementing RJ by facilitating living law in society in the criminal justice system.

Keywords: *Integrative Mechanism; Living Law; Restorative Justice.*

INTRODUCTION

One of the main ideas in reforming Indonesian criminal law is the effort to present criminal law solutions based on local values that develop in society. As a country with a religious-magical character and a cultural dimension that still exists in society, the enforcement of criminal law in Indonesia must be directed to accommodate the values that develop in the community.¹ The values that developed in society at the time the Criminal Code (In Indonesian: *Kitab Undang-Undang Hukum Pidana* or KUHP) and Criminal Procedure Code (In Indonesian: *Kitab Undang-Undang Hukum Acara Pidana* or KUHAP) came into effect had not been optimally accommodated so that the settlement of criminal acts was still oriented towards litigation and in accordance with procedural law provisions.² One of the efforts to resolve a crime by accommodating local values can be made by basing the concept of Restorative Justice (hereinafter referred to as RJ). RJ is a concept that emphasizes the settlement of criminal

disputes by highlighting healing and compensation to victims, giving a deterrent effect to perpetrators, and maintaining social harmony in society.

Judging from RJ's orientation, the application of RJ is synonymous with law enforcement practices based on local values in culture, which emphasizes the essence and harmonious values compared to mechanical criminal law procedures and processes. Implementing RJ based on local values in society is also important so that criminal disputes can be resolved based on the legal ideals of society and following national personality. Local values in society as guidelines for resolving criminal disputes are harmoniously manifested in social norms, customary law, and decency that apply in society. In addition, applying RJ based on local values in society also finds relevance with the enactment of Law no. 1 of 2023 concerning the Criminal Code (hereinafter referred to as KUHP Law). Article 2 of the Criminal Code emphasizes recognizing and empowering living law as a local value that applies in society. The formulation in Article 2 of the Criminal Code facilitates the implementation of RJ by adopting local values in society, especially values that live, grow, and apply in the community. The application of RJ by adopting local values in society in the context of the sociology of law is part of an effort to integrate mechanisms in society (an integrative mechanism) as one of the efforts to deal with conflict. The integrative mechanism in this context is an effort to handle conflicts based on the social harmonization of society by optimizing prevailing local values.

Local values in the integrative mechanism are intended as a balancing value for formal criminal law procedures based on procedural law with a focus on legal certainty.³ Therefore, the urgency of this research is the application of local value-based RJ in the community as an integrative mechanism in efforts to resolve disputes or conflicts in the community. This study aims to answer two legal problems: the urgency of implementing RJ by adopting living law in society and the formulation of RJ implementation as an integrative mechanism that adopts living law in the community to settle criminal law. Research on aspects of RJ and living law in society has been carried out by three previous researchers. *First*, research conducted by Prasetio (2021), which describes the need for settlement of criminal disputes through the role of the local customary law apparatus of the Sendi community, Mojokerto.⁴ *Second*, research by Ahmad et al. (2022) focuses on the need for a formulation that integrates the criminal law settlement process between national law and customary law carried out by customary courts.⁵ *Third*, Matondang (2023) research specifically analyzes and describes RJ solutions in the community in Bima City by adopting developing local values.⁶ Of the three previous studies, research on applying RJ concerning adopting living laws and integration mechanisms has never been conducted. Therefore, this study's novelty focuses on using RJ as an integrative mechanism by adopting living law that develops in society to resolve criminal law based on restorative justice.

METHOD

³Dian Alan Setiawan, (2018), 'The Implication of Pancasila Values on The Renewal of Criminal Law in Indonesia', *Unifkasi : Jurnal Ilmu Hukum*, 5.(2), p.58 <<https://doi.org/10.25134/unifikasi.v5i2.948>>.

⁴Dicky Eko Prasetio, (2021), 'Inventarisasi Putusan Peradilan Adat Sendi Sebagai Upaya Memperkuat Constitutional Culture Dalam Negara Hukum Pancasila', *Jurnal Hukum Lex Generalis*, 2.(3), p.249–273.

⁵Lia Fauziyyah Ahmad Mufidah, Rizal Maulana, (2022), 'Peradilan Adat Sebagai Kerangka Restorative Justice Dalam Penyelesaian Perkara Pidana Di Indonesia', *Mizan*, 6.(2),p.229.

⁶Franto Akcheryan Matondang, (2023), 'Penerapan Keadilan Restoratif Terhadap Tindak Pidana Pencurian Di Wilayah Hukum Polres Bima Kota', *Janaloka*, 2.(1), p.57.

This research, which focuses on applying local value-based RJ in society as an integrative mechanism to resolve disputes or conflicts in the community, is normative legal research. Normative law research studies “norms” or “rules” that apply in society, especially based on positive law provisions.⁷ The primary legal materials in this study are the 1945 Constitution of the Republic of Indonesia, the Criminal Code, the Criminal Procedure Code, and the KUHP Law. Secondary legal materials are research results, journal articles, and books that discuss RJ, living law, and the conception of integrative mechanisms. Non-legal materials are legal dictionaries. The approach used is the concept and statutory process.

ANALYSIS AND DISCUSSION

The Urgency of Implementing Restorative Justice by Adopting Living Law

RJ’s conception relates to the term “restorative,” which in the Black’s Law Dictionary means to repair, return to normal, or restore.⁸ Thus, RJ’s conception is related to efforts to improve, return to normal, to restore everything related to the impact of a crime. RJ’s concept is associated with modern criminal law, which views that legal policy to recover victims and make perpetrators aware of the crime is essential in criminal law.⁹ This view of current criminal law criticizes the perspective of classical criminal law that punishment is the most critical thing in criminal law. Classical criminal law associates criminal law as law with criminal sanctions, especially imprisonment to retaliate for crimes committed. RJ’s conception as the antithesis of classical criminal law is part of the development of general law theory, especially criminal law, which is developing universally. This means the development of RJ is not only based on developments in a particular country to be imitated by other countries. But, the development of RJ is the development of the conception and practice of law based on the development of modern criminal law ideas which criticize the classical criminal law ideas which are no longer valid and relevant in the 21st century.

The story of the concept and practice of criminal law places the role of RJ as a universal concept that is important to be applied in each country.¹⁰ RJ’s conception as part of the development of common law also cannot be identified with the dichotomy between civil law and common law legal systems. RJ’s conception as part of the development of a general conception of criminal law influences its application in countries with civil law and common law legal systems, as well as other legal systems. In John Braithwaite’s view,¹¹ the development of RJ’s ideas in criminal law was at least influenced by three mainstream arguments. *First*, RJ was born due to “restlessness” from the community because the criminal justice system was unable to produce a settlement that was in line with the expectations and foundations of community justice.¹² Marc Galanter illustrates public unrest due to the ineffective and sub-optimal criminal justice system that the modern criminal justice system does not solve problems but instead has implications for new issues that arise within the criminal justice system itself. Marc Galanter’s view can be

⁷Ani Purwati, (2020), *Metode Penelitian Hukum Teori Dan Praktek*, 1st edn . Surabaya: CV. Jakad Media Publishing, p.33.

⁸Henry Campbell Black Bryan A. Garner, (2019), *Black’s Law Dictionary*, 11th edn. Minnesota: West Publishing Co, St. Paull,

⁹MA Hasbullah, (2022), ‘Implementation of Restorative Justice in Handling Cases of Bullying in Schools’, *Journal of Positive School Psychology*, 6.(3),p. 9970–99778 <<https://www.journalppw.com/index.php/jpsp/article/download/5544/3665>>.

¹⁰Ahmad Muhajir, Marwan Mas, and Ruslan Renggong, (2022), ‘Penerapan Restorative Justice Terhadap Tindak Pidana Penipuan Dan Atau Penggelapan Di Wilayah Kepolisian Daerah Sulawesi Selatan’, *Indonesian Journal of Legality of Law*, 4.(2), p.167–172 <<https://doi.org/10.35965/ijlf.v4i2.1375>>.

¹¹K. Hope Harriman, (2021), ‘Regulating Restorative Justice: What Arbitration Teaches Us About Regulating the Restorative Process in Criminal Courts’, *Georgetown Journal of Legal Ethics*, 34.(4), p.1005–1024.

¹²Denny Irawan, (2022), ‘Restorative Justice Aspect in Strengthening Preliminary Evidence Audit in Indonesian Taxation’, *Jurnal Tax Law and Policy*, 1.(2), p.1–10 <<https://doi.org/10.56282/jtlp.v1i2.90>>.

understood by referring to the criminal justice system process, which is very procedural and even injures people's rights, as well as being an inefficient and expensive process.¹³

Achmad Ali strengthened the view that problems in the criminal justice system are because the criminal justice system is too "closed" and does not provide space for social-community institutions to participate in resolving existing problems.¹⁴ That statements confirms that the presence of RJ is a form of "disappointment" and "restlessness" in society by the criminal justice system, which is far from the values of justice society wants.

Second, RJ develops as a form of constructive understanding from law enforcement officials (especially lawyers, police, and prosecutors) as a result of certain cases that should be resolved more quickly and more fairly compared to settlements based on the criminal justice system with procedures, processes, and mechanisms that take time and cost. These law enforcement officials feel that in carrying out their duties, a certain orientation is needed to facilitate the process and ensure justice for the parties involved. *Third*, RJ conceptually develops from a critique of classic criminal law, which focuses on "perpetrators" of criminal acts, to modern criminal law, which focuses on "victims" of criminal acts.¹⁵ Classical criminal law places the "perpetrator" as the main element of a crime, so imprisoning the perpetrator is the main thing that must be done based on the paradigm of classical criminal law. However, in modern criminal law with its focus and orientation on "victims" of criminal acts, efforts to recover and heal victims are the main focus of current criminal law, so the idea of RJ was born.

From the three arguments for developing RJ's conception above, it can be concluded that RJ's concept was due to the need for community law according to the paradigm of modern criminal law to provide access to justice, especially for victims of crime. Furthermore, in Wright's view, the development of RJ's ideas is also influenced by universality and locality views in criminal law practice. The thought of universality relates to the development of modern criminal law practices with a focus on the practice of criminal law in Western Europe and the United States as an "orientation" of legal courses in the world, especially criminal law. In the United States, for example, the idea of RJ developed formally in advocate organization discussions as a reflection of legal practices carried out by advocates, which in fact, the criminal justice system in the United States has not been able to provide optimal recovery efforts for victims of crime.¹⁶ Furthermore, in Western Europe, the development of conceptual ideas regarding RJ is also based on criticism of enacting laws governing the Criminal Procedure Code that are too formalistic and lead to inefficiencies in criminal law enforcement. The criticism that later gave birth to RJ in Western Europe was generally carried out by the Police Prosecutors and legislators in parliament who wanted RJ's ideas to be accommodated in positive law as a guideline for implementing the criminal justice system.¹⁷

The development of RJ's ideas in Western Europe and the United States above is one of the constructions of RJ's thoughts in the world. This means there are other thoughts about RJ which also influence the practice of RJ globally. This is based on an understanding of traditions and living laws developed in Asian and African societies, which are developed through

¹³Mahfud Mahfud, Faisal A. Rani, and Rizanizarli Rizanizarli, (2021), 'Distinction Between Victims and Criminals In Relation To Using Narcotics Illegally in Indonesia', *Pancasila and Law Review*, 2.(1), p.37–48 <<https://doi.org/10.25041/plr.v2i1.2306>>.

¹⁴Achmad Ali, (2017), *Menguak Teori Hukum & Teori Peradilan Termasuk Interpretasi Undang-Undang (Legisprudence) Volume 1 Pemahaman Awal*, 7th edn, Jakarta: Kencana. p. 53.

¹⁵Wempy Setyabudi Hernowo, Zaid Zaid, and M. Afar Saputra Pratama Erawan, (2021), 'Peran Sociological Jurisprudence Dalam Menciptakan Keefektivitasan Hukum Melalui Living Law', *Legalitas: Jurnal Hukum*, 13.(1), p.44 <<https://doi.org/10.33087/legalitas.v13i1.243>>.

¹⁶Hani Morgan, (2021), 'Restorative Justice and the School-to-Prison Pipeline: A Review of Existing Literature', *Education Sciences*, 11.(4), p.3 <<https://doi.org/10.3390/educsci11040159>>.

¹⁷Gert Jan Slump and Anneke Van Hoek Annemieke Wolhuis, Jacques Claessen, (2019), 'Dutch Developments: Restorative Justice in Legislation and in Practice', *The International Journal of Restorative Justice*, 2.(1), p.119.

customary law or social decency.¹⁸ Most countries in Asia and Africa have a cultural pattern that systemically adopts the local wisdom of each community, one of which is to regulate dispute resolution in society.¹⁹ In Asian and African cultures prioritizing living law and legal dispute resolution, especially in criminal law, there are alternatives to resolve it based on prevailing customs or social etiquette. Settlements based on prevailing custom or social appropriateness emphasize the harmonious character between perpetrators and victims of criminal acts and are oriented towards solving criminal acts by empowering and healing victims due to criminal acts.

In Tony F. Marshall's view, RJ is a genuine procedure in society whose orientation is to resolve legal problems that exist in society through a humanist, cultural and substantive approach. This is because in RJ the parties are found to find a joint solution to a legal problem.²⁰ The practice of RJ has essentially been applied by Asian and African societies, even though in different techniques, and generally has an orientation to remedy social disorder caused by a crime. In this context, digging into living law in society is one of the orientations for RJ implementation, especially for Asian and African communities.

The practice of RJ, which refers to and sees living law in society in the Indonesian context, meets two relevance. *First*, conceptually, the essence of judicial power, as in Article 24 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, is the realization of law and justice, one of the orientations of which is that law enforcement officials must explore the values of justice that live and grow in society. This implicitly confirms that RJ already has a constitutional basis for implementation in Indonesia. *Second*, referring to the orientation of criminal law reform, one of which is the promulgation of the KUHP Law in 2023, the substance of RJ, by exploring living laws in society, has gained legitimacy, especially in Article 2 of the KUHP Law which emphasizes the need to pay attention to the laws that live in community in practice.²¹

One example of the application of RJ in Indonesian society is by prioritizing living law as practiced by the Indigenous People of Sendi Mojokerto which imposes a penalty of replacing one bunch of bananas and planting a banana tree for one banana tree thief.²² Of course, referring to the provisions of the positive law, the thief of a bunch of bananas is directly subject to Article 362 of the Criminal Code, but referring to the living law as practiced by the Indigenous People of Sendi Mojokerto there is an educational value in enforcing a criminal law, namely by the punishment of planting banana trees so that thieves know how to plant a banana tree is not easy so it is not feasible and proper to steal it. This shows that the repertoire of living law in Indonesia already has an orientation in implementing RJ practices.

Referring to the two-relevance related to the application of RJ, which adopts living law in society, RJ is important in the criminal justice system in Indonesia because apart from being oriented towards corrective and retributive justice, RJ also shows a style of criminal law that is following the ideals of law and the personality of the Indonesian people. In this context, the urgency of implementing RJ by adopting living law in society is expected so that the criminal justice system in Indonesia can run and be enforced effectively because it is based on living

¹⁸C. Mutanda, D., & Hendricks, (2022), 'Restorative Justice in Zimbabwe's Reconciliation Process: Some Considerations', *Peace and Conflict: Journal of Peace Psychology*, 28.(4), p.493.

¹⁹R S Assegaf, (2018), 'Sentencing Guidance in the Indonesia's Criminal Code Reform Bill: For Whose Benefit?', *Australian Journal of Asian Law*, 19.(1), p.87-104 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3239777>.

²⁰Haniyatul Husna and Andi Intan, (2023), 'Does International Law Acknowledge Restorative Justice?', *Sriwijaya Law Review*, 7.(1), p.121-134 <<https://doi.org/10.28946/slrev.Vol7.Iss1.2130.p.121-134>>.

²¹Ferry Irawan Helmalia Cahyani, Intan Nurul Firdaus, Julia Elisabeth, (2022), 'Kebijakan Pasal-Pasal Kontroversial Dalam RUU KUHP Ditinjau Dari Perspektif Dinamika Sosial Kultur Masyarakat Indonesia', *Journal of Law, Administration, and Social Science*, 2.(2), p.85.

²²Dita Perwitasari Dicky Eko Prasetyo, Fradhana Putra Disantara, Nadia Husna Azzahra, (2021) "The Legal Pluralism Strategy of Sendi Traditional Court in the Era of Modernization Law," *Rechtsidee* 8, no. 1:p. 4.

law originating from people's personalities. In addition, the urgency of implementing RJ by adopting living law in society is also intended to involve the community in a participatory manner in dispute resolution so that the criminal justice system does not operate in a vacuum and can accommodate local values that develop in society.

Formulation of the Restorative Justice as an Integrative Mechanism in the Criminal Law Process

As an orientation in resolving disputes in criminal law in Indonesia, RJ has a social and cultural foundation, especially concerning the characteristics of Indonesian society. This can be understood by the elements of the Indonesian people who view disputes as a "disease" that must be cured. According to Satjipto Rahardjo, the characteristics of the Indonesian people in understanding a dispute are similar to the views of the Japanese regarding disputes which view disputes as having to be resolved by harmonization of the parties and emphasizing the "conscience" aspect over regulatory provisions.²³ In this context, the views of the Indonesian people regarding disputes actually have three orientations. *First*, culturally the Indonesian people view disputes as a disorderly social condition. That disorderly social situation creates a social dysfunction that all members of society must restore. In this context, the communalistic character of Indonesian culture holds that the existence of a crime is a sign of a social disorder that must be cured and restored. That means imprisoning the perpetrators of criminal acts is not the main orientation because the main direction is to restore social order after the crime.

Second, the Indonesian people view "peace" as the best solution to a dispute. Peace here is essentially understood as an effort to restore and fulfill victims' rights. The victim in this context occupies an important position because a crime harms the victim. Therefore, peace as the main character of local wisdom-based dispute resolution in Indonesia emphasizes healing and restoration of victims' rights due to criminal acts. *Third*, in the cultural view of Indonesian society, sanctions as a result of criminal acts are seen to create a deterrent effect and to try to prevent similar actions from happening again. Therefore, it is not uncommon for sanctions to be applied based on local wisdom to make criminals "embarrassed" and reluctant to commit crimes again.

Referring to the three views of the Indonesian people regarding the dispute above, the three views of the Indonesian people have relevance to the practice of RJ. Conceptually, RJ has substantively fulfilled the three views of the Indonesian people regarding disputes and their settlement, such as prioritizing the recovery of social disorder that has occurred, being oriented towards peace or fulfilling the rights of victims, and emphasizing the characteristics of sanctions that are both preventing and overcoming criminal acts. From the suitability between RJ and the parts of the Indonesian people in understanding disputes and their resolution, RJ in this context becomes an integration mechanism in criminal cases. The integration mechanism, or in his terms known as the integrative mechanism, is a conception put forward by Harry C. Bredemeier, who sees that in social reality, the law is an integrative mechanism so that existing social problems can be overcome and restored.²⁴ Conceptually, the idea of an integrative mechanism in law is based on three aspects.

²³Imam Asmarudin, (2022), 'Struggle of Legal Positivism Versus Progressive Thoughts in the Formal Tests of the Job Creation Act (Legal Development through Hermeneutics)', *Dinamika Hukum*, 22.(1), p.144-153 <<https://doi.org/10.20884/1.jdh.2022.22.1.3178>>.

²⁴Lalu M. Alwin Ahadi, (2022), 'Efektivitas Hukum Dalam Perspektif Filsafat Hukum: Relasi Urgensi Sosialisasi Terhadap Eksistensi Produk Hukum', *USM Law Review*, 5.(1), p.117.

First, the law as an integrative mechanism emphasizes social harmonization, which means that a crime is not viewed *vis a vis*, namely between the perpetrator of the crime and the victim.²⁵ The integration mechanism views that law concerning the relationship between perpetrators and victims of criminal acts is part of society, so both must get what should be obtained based on prevailing societal values. For victims, the fulfillment of these rights can be in the form of fulfilling the rights violated as a result of criminal acts. As for the perpetrators of criminal acts, the community can make various efforts so that the perpetrators can be socialized again and become a society in general. *Second*, the law as an integrative mechanism emphasizes the existence of a win-win solution, namely a solution that has a dimension of benefit for both perpetrators, victims, and people affected by criminal acts. This win-win solution is interpreted as the existence of specific solutions and formulations from the impact of criminal acts so that social order in society is restored and is not disturbed by the effects of criminal acts.

Third, the law as an integrative mechanism emphasizes the need for harmonization of the enforceability of legal norms made in an authoritative-institutional manner by the state with growing, living, and developing social standards such as customary law norms and social decency. In this context, social-community norms as living law and national legal norms regarding the criminal justice system are expected to collaborate in realizing social order, especially in efforts to resolve disputes. From the three characteristics of the integrative mechanism above, it can be concluded that the conception of law as an integrative mechanism is relevant to the practice of RJ. Concerning social harmonization, RJ has an orientation to maintain social harmonization to fulfill the social-community order. RJ views that a crime does not occur in a vacuum but is a social fact that must be handled to restore it to its original condition. From the aspect of win-win solution in dispute resolution, RJ emphasizes the element of a win-win solution in which parties are brought together to resolve existing problems jointly. The meeting of the parties is a manifestation of a win-win solution which is the orientation of RJ's practice. Regarding the harmonization of enforcement between legal norms and living law, in practice, RJ also opens space for enacting living law to resolve disputes based on restorative justice.

Guided by the three legal aspects as an integrative mechanism and its relation to RJ's practice, it can be seen that RJ has fulfilled the legal aspect as an integrative mechanism in society by prioritizing living law aspects. Even so, one of the practical obstacles to realizing RJ optimally as an integrative mechanism is related to the regulation of RJ, which is still partial because it is still regulated in each law enforcement agency's internal regulations. Therefore, the effort to optimize RJ as an integrative mechanism is to formulate rules regarding RJ holistically and comprehensively. Ideally, arrangements regarding RJ holistically and comprehensively can be carried out with revisions to the Criminal Procedure Code so that the substance of RJ that has been facilitated in the Criminal Code. Actually, in the practice of enforcing the criminal justice system needs to pay attention to updating procedural law to include aspects of RJ in each stage of the criminal justice system. Even so, because the revision of the Criminal Procedure Code is a long process and takes a long time. It is necessary to formulate a Joint Decree (in Indonesian: *Surat Keputusan Bersama* or SKB) regarding the RJ, which will be signed by the Ministry of Law and Human Rights, the Chief Justice of the Supreme Court (in Indonesian: *Mahkamah Agung* or MA), the Attorney General, and the Chief of Police which substantially contains regarding the principles, basis, and practice of implementing RJ by facilitating living law in society in the criminal justice system.

²⁵Robert Cario, (2021), 'Restorative Justice in France : Standards and Their Deviations', *International Journal on Criminology*, 8,(2), p.31-63 <<https://doi.org/10.18278/ijc.8.2.3>>.

The SKB that has been agreed upon can be followed up with technical regulations in each law enforcement institution. The SKB legal product was chosen as a “transitional legal product” before the revision of the Criminal Procedure Code to facilitate the principles, basis, and practice guidelines, as well as living law in society to be used as a guideline for implementing RJ for law enforcement officials. Based on the analysis above, the formulation of the application of RJ as an integrative mechanism in the criminal law settlement process is to reform the criminal procedural law by revising the Criminal Procedure Code by including the substance of the RJ, which facilitates living law in society. However, because changing the Criminal Procedure Code takes a long time, a transitional legal product can be formed in the form of an SKB RJ, which substantially contains the principles, basis, and practice of implementing RJ by facilitating living law in society in the criminal justice system. The SKB that has been agreed upon can be followed up with technical regulations in each law enforcement institution. This formulation is expected to position law as an integrative mechanism by optimizing RJ practices based on living law in society.

CONCLUSION

The urgency of implementing RJ by adopting living law in society is expected so that the criminal justice system in Indonesia can run and be enforced effectively because it is based on living law which originates from the community’s personality. In addition, the urgency of implementing RJ by adopting living law in society is also intended to involve the community in a participatory manner in dispute resolution so that the criminal justice system does not operate in a vacuum and can accommodate local values that develop in society. The formulation of the application of RJ as an integrative mechanism in the criminal law settlement process is to reform the criminal procedural law by revising the Criminal Procedure Code by including the RJ substance, which facilitates living ordinance in society. However, because the process of changing the Criminal Procedure Code takes a long time, a transitional legal product can be formed in an SKB RJ, which substantially contains the principles, basis, and practice of implementing RJ by facilitating living law in society in the criminal justice system. The SKB that has been agreed upon can be followed up with technical regulations in each law enforcement institution. This formulation is expected to position law as an integrative mechanism by optimizing RJ practices based on living law in society.

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