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Tinjauan yuridis mekanisme mediasi penal sebagai alternatif model penyelesaian perkara pidana di Aceh dalam kedudukannya terhadap sistem peradilan pidana di Indonesia = Juridical review on the mechanism of penal mediation as the alternative model of criminal cases settlement in Aceh within its position in Indonesian criminal justice system

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Abstrak

ABSTRAK
Mediasi tidak lagi hanya digunakan untuk menyelesaikan sengketa-sengketa di ranah perdata, melainkan dalam perkembangannya dapat digunakan untuk menyelesaikan perkara-perkara pidana tertentu. Mediasi sebagai alternatif model penyelesaian perkara pidana ini dikenal dengan istilah mediasi penal. Indonesia telah mengimplementasikan konsep mediasi penal dalam Sistem Peradilan Pidana Anak yakni melalui Diversi dan dalam penanganan perkara-perkara pidana tertentu di tingkat penyidikan oleh aparat kepolisian. Namun demikian, masyarakat hukum adat di beberapa daerah di Indonesia pada dasarnya juga telah menerapkan konsep mediasi penal sejak lama, Aceh menjadi salah satunya. Tinjauan Yuridis dalam penelitian ini difokuskan pada bagaimana mekanisme dan kedudukan mediasi penal di Aceh dalam Sistem Peradilan Pidana di Indonesia serta kekuatan hukum hasil mediasi penal yang dijalankan tersebut. Penelitian ini merupakan penelitian yuridis-normatif dengan studi kepustakaan. Hasil penelitian menunjukkan bahwa mediasi penal yang dijalankan di Aceh terintegrasi di dalam Peradilan Adatnya yang berasaskan musyawarah damai sesuai ajaran Islam, dimana Peradilan Adat ini merupakan tahap pendahuluan bagi penyelesaian perkara pidana tertentu. Apabila telah diupayakan penyelesaian di dalam Peradilan Adat namun tidak berhasil, maka pihak-pihak terkait dapat membawanya ke jalur Peradilan Formal Negara. Putusan yang dihasilkan oleh Peradilan Adat di Aceh memiliki kekuatan hukum yang mengikat langsung bagi para pihak yang telah menyatakan secara tegas menerima putusan tersebut.
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ABSTRACT
Mediation is no longer used only for civil cases settlement, but has now been used for particular criminal cases settlement as well. Mediation as the alternative model of criminal cases settlement is known as penal mediation. Indonesia has implemented the concept of penal mediation in Juvenile Criminal Justice System through Diversion and in the dealing of particular criminal cases at the level of investigation by police officers. However, indigenous people in several areas in Indonesia basically have also implemented the concept of penal mediation since quite a long time, Aceh is one of them. Juridical review in this research is focused on how the mechanism and the position of penal mediation in Aceh in Indonesian Criminal Justice System are, also the legal force of the implementation of penal mediation in Aceh. This is a normative legal research which is conducted through literature and desk study. The results of this research show that the implementation of penal mediation in Aceh is integrated in their Customary Justice which is based on the principle of peaceful deliberation according to the teaching of Islam, where the Customary Justice they have is a preliminary stage for particular criminal cases settlement. If a settlement had been attempted through the

Customary Justice but was unsuccessful, then the related parties could bring their cases for settlement through the Formal Justice. The decisions made by the Customary Justice in Aceh have a direct legal binding for the parties who have expressed their acceptance of the decisions explicitly.