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Research Paper

Penal Mediation in Health Law

Andi Sofyan[1]

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ABSTRACT:- *Penal mediation is one kind of form of mediation, there are three things that must be considered in order to conduct mediation, it is : violation, identify the parties, and the complaints of one of the parties. Penal mediation is one of the best in the process of completing the medical case which aims to find the best solution for each party.*

KEYWORDS:- *Penal mediation, win-win solution, medical cases.*

I. INTRODUCTION

Along with the rapid advancement of science in the field of law, so the more new things that can be resolved by using knowledge of the law, including the science of law in the field of health. Health is a basic right of every person, and every citizen is entitled to health services, good health care guarantees a sense of security is also good for consumers of health services. Conversely, poor health services also make a negative reaction from consumers of health services, starting from the protests to report cases to the police.

Cases lately reported, both in the press and electronic media occurred in the medical world, cases involving health professionals with the patient to set a precedent for the enforcement of criminal law in the medical field. Negligence were the factors most often done by health workers in hospitals, health workers as a result of the criminal proceedings, the process (criminal proceedings) is the only process that is in the minds of law enforcement in enforcing justice, particularly the police, and the prosecutor who continued his case to court. Conventional criminal proceedings for example, where there has been a reconciliation between the offender and the victim, and the victim has forgiven the offender, then it can not affect the authority of law enforcement to pass into the realm of criminal cases that resulted in convictions for criminal. Formal criminal process time-consuming and does not provide certainty for offenders and victims would not necessarily meet or restoring the relationship between victim and offender. Conventional criminal proceedings will only make the victim as a witness in the trial level that does not significantly affect the decision of punishment, remains assigned to the task of prosecuting attorney who only accept files processed further investigation to be the basis of criminal charges, without knowing and understanding the condition of these problems are real, and the perpetrators must be prepared to accept the punishment that would be meted out to him (http://lbhmawarsaron.or.id/eng/index.php?option=com_content&view=article&id=192:pendekatan-restorative-justice-dalam-sistem-pidana-indonesia&catid=71&Itemid=190)[1].

The authority to exclude the criminal case itself is known as the embodiment of the principle of opportunity which is solely owned by the General Attorney. In practice was actually at the level of police investigation often collided with the formal rules of criminal procedure if wanted to shelve a criminal case, discretion possessed by the police does not cover the authority to assess a case to be continued or discontinued, the proportion is only limited evidence of a criminal act fairly. If there is any evidence for a criminal offense, the police will forward the case (http://lbhmawarsaron.or.id/eng/index.php?option=com_content&view=article&id=192:pendekatan-restorative-justice-dalam-sistem-pidana-indonesia&catid=71&Itemid=190)[2]. Therefore we need an alternative to the settlement in order to resolve cases in the medical field oriented win-win solution for all parties involved with the case. One alternative is referred to penal mediation settlement. Based on the description, the issues to be discussed in this paper is What is a penal mediation? and How is the implementation of penal mediation in the health sector?

Corresponding Author : Andi Sofyan

Professor of Law, Faculty of Law, Hasanuddin University, Makassar, South Sulawesi, Indonesia.

II. RESEARCH METHODS

Type of Research

Based on the formulation of the problem and the objectives to be achieved in this research, the type of research is a normative legal research (Soerjono Soekanto and Sri Mamudji, 2011)[3], namely by reviewing the rules of law and legal materials related to the issues to be discussed, with using a conceptual and statute approach (Peter Mahmud Marzuki, 2010)[4].

Type of Legal Material

Legal materiel type that used in this research are primary and secondary legal material (Salim HS and Erlies Septiana Nurbani, 2013)[5].

Data Analysis

In accordance with the problems to be answered and the objectives to be achieved in this research, the data collected both primary and secondary legal material were analyzed qualitatively (Matthew B. Miles dan A Michael Huberman, 2009)[6], hereinafter described (Soerjono Soekanto, 2012)[7] to address problems in this study.

III. RESULTS AND DISCUSSION

A. Penal Mediation.

1. Definition, terms, and importance of Penal Mediation

Penal mediation is often called by various terms, such as : "mediation in criminal cases" or "mediation in penal matters" which in terms of the Dutch so-called strafbemiddeling, in terms of the German so-called "Der Außergerichtliche Tataus-gleich" shortened ATA (in Austria consists of ATA-J [Außergerichtlicher Tatausgleich für Jugendliche] for children, and ATA-E [Außergerichtlicher Tatausgleich für Erwachsene] for adults) and in terms of the France so-called "de mediation pénale". Because the priority penal mediation meeting between the offender with the victim, the penal mediation is often also known as "Victim-Offender Mediation" (VOM), Täter-Opfer-Ausgleich (TOA), atau Offender-victim Arrangement (OVA). Penal mediation is a form of alternative dispute resolution outside the court, commonly known as ADR or "Alternative Dispute Resolution"; others call "Apropriate Dispute Resolution" (New York State Dispute Resolution Association, Inc., Alternative Dispute Resolution in New York State, An Overview; cited by Barda Nawawie Arief, 2010, Moreover, it can also be accessed at http://bardanawawi.wordpress.com/2009/12/27/mediasi-penal-penyelesaian-perkara-pidana-di-luar-pengadilan/)[8]. ADR generally used in the civil cases (see the Law of the Republic of Indonesia Number 30 of 1999 on Arbitration and Alternative Dispute Resolution)[9], not for criminal cases (Barda Nawawie Arief, 2010)[10]. Of these terms can be explained that the actual penal mediation has developed and started a lot in practice by developed countries, This is because the process of settling disputes by involving all stakeholders is needed.

Under the laws in force in Indonesia today (positive law) is in principle a criminal case can not be settled out of court, although in certain respects, it is possible for the settlement of a criminal case out of court. Although in general the settlement of disputes outside the courts exist only in civil disputes, but in practice often criminal case settled out of court through various discretionary law enforcement officers or through the mechanism of forum or a remission of existing institutions in society (the family council; a village meeting; customary deliberation, and so on). The practice of settling disputes outside the court during the criminal is no formal legal basis, so often a case that informally have no peace settlement (although the use of customary law mechanisms), but still it is processed to the court according to law (Barda Nawawie Arief, 2010)[11]. This has become one of the weaknesses of the criminal law in Indonesia, one consequence of such a system, causing prisons in Indonesia are over capacity.

The development of theoretical discourse and criminal law reform in many countries, there is a strong tendency to use the mediation of criminal / penal as one alternative to dispute settlement in the field of criminal law. According to Detlev Frehse, increasing the use of restitution in criminal proceedings shows that the difference between criminal and civil law was not significant (Barda Nawawie Arief, 2010, see also Detlev Frehse [Professor of Criminology and Criminal Law, University of Bielefeld, Germany] "Restitution and Offender-Victim Arrangement in German Criminal Law: Development and Theoretical Implications", accessed at http://wings.buffalo.edu/law/bclc/bclr.htm)[12]. No significant difference, indicating that the actual issue of civil and criminal alike can be resolved through mediation.

Be aware that historically, Indonesian culture upholds the consensus approach (Mushadi, 2007)[13]. But according to Muladi consensus model that is considered to give rise to new conflicts must be replaced with a model asensus, because the dialogue between the disputants to resolve the problem, is a very positive step. With this concept, the term ADR that in certain cases, according to Muladi better meet the demands of justice and efficient. ADR is part of the concept of restorative justice that puts justice on the position of mediator

(Muladi, 1997 cited by Sahuri Lasmadi)[14]. For more details can be seen in United Nations Office for Drug Control and Crime Prevention, stated that restorative justice is a new term for an old concept. Restorative justice approach has been used in solving the problem of conflict between the parties and restore peace in society. Because retributive or rehabilitative approaches against crime in recent years is considered unsatisfactory. Therefore causes the impetus to switch to the restorative justice approach. Framework of restorative justice approach involves the offender, the victim and the community in an attempt to create a balance between the offender and the victim (United Nations Office For Drug Control and Crime Prevention, 1999)[15]. This is consistent with the use of mediation as a path resolution process a case that it aims to create a balance, so that the results achieved the expected occurrence of a win-win solution for all parties concerned.

In Documents A/CONF.187/8 presented at the 10th United Nations Congress on the Prevention of Crime and the Treatment of Offenders which is held in Vienna, on April 10-17, 2000, at the Basic Principles of Justice for Offenders and Victims, imprinted on the Alternative of Restorative Justice. According to documents seen restorative justice as an alternative model in criminal justice. all parties must take part to solve certain problems together, how to face the consequences of the problem and its implications for the future. In this model, the emphasis is on reparation and prevention rather than convict. Restorative justice and other forms of dispute resolution both formal and non-formal, reflecting the current trends of the ideology of individualism and reduce the function of the state (Sahuri Lasmadi)[16]. The model is then started to be developed in order to reform the criminal law in Indonesia, one concrete proof is with the enactment of the Law of the Republic of Indonesia Number 11 Year 2012 on Child Criminal Justice System.

2. Basic ideas and Penal Mediation Working Principle

Mediation penal (criminal) developed at this time is based on the ideas and working principles as follows (Stefanie Tränkle, accessed at http://www.iuscrim.mpg.de/forsch/krim/traenkle_ e.html. cited by Barda Nawawie Arief, 2010)[17] :

a. Conflict Handling *(Konfliktbearbeitung)* :

The task of the mediator is to make the parties to forget the legal framework and encourage them to get involved in the communication process. It is based on the idea that a crime has provoked interpersonal conflict. That conflict designated by the mediation process.

b. Process Orientation *(Prozessorientierung*) :

Penal mediation is more oriented to the quality of the process rather than the result, namely: criminals will realize his mistake, the needs of the conflict is solved, peace of victims of fear and so on.

c. Informal Proceeding *(Informalität*) :

Penal mediation is an informal process, not bureaucratic, avoiding the strict legal procedures.

d. Active and Autonomous Participation *(Parteiautonomie/Subjektivie-rung)* :

The parties (perpetrator and victim) is not seen as an object of criminal law procedure, but rather as a subject who has a personal responsibility and ability to act. They are expected to act on his own.

There are several ideas behind the discourse of the use of mediation in criminal matters. According to Barda Nawawi, idea penal mediation, there are problems associated with the renewal of the criminal law (penal reform) and there are problems associated with pragmatism. The background idea of penal reform, among others, the idea of protection of victims, the idea of harmonization, the idea of restorative justice, the idea of overcoming stiffness / formalities within the existing system, the idea of avoiding the negative effects of the criminal justice system and the criminal system that exists today, especially in the search for *alternative to* imprisonment/alternative to custody (Barda Nawawie Arief, 2010)[18].

The Background pragmatism among others, to reduce stagnation or accumulation of cases, for simplification of the judicial process and so on. Thinking about the basic idea of this mediation model, Recommendation No. R (99) 19 from the Committee of Ministers of the Council of Europe, September 15, 1999 has stated that :

"The idea of mediation unites those who want to reconstruct long foregone modes of conflict resolution, those who want to strengthen the position of victims, those who seek alternatives to punishment, and those who want to reduce the expenditure for and workload of the criminal justice system or render this system more effective and efficient" (Laely Wulandari)[19].

So, mediation as one of the possible forms of ADR in criminal cases; but still were given legal framework (mediation within the framework of criminal law), which can be integrated in the material criminal law/KUHP or a formal criminal law/KUHAP (Laely Wulandari)[20].

3. Penal Mediation Models (Criminal)

Settings "explanatory memorandum" on the recommendation of the European Council No. R (99) 19 on "Mediation in Penal Matters", raised some penal mediation model as follows (a complete description can be accessed at sfm.jura.uni-sb.de/archives/images/ mediation-en%5B1%5D.doc cited by Barda Nawawie Arief, 2010)[21] :

a. "Informal Mediation"
b. "Traditional Village or Tribal Moots"
c. "Victim-Offender Mediation"
d. "Reparation Negotiation Programmes"
e. "Community Panels or Courts"
f. "Family and Community Group Conferences",

Here's an explanation of mediation penal models (criminal) mentioned above :

(a) "Informal Mediation" Model

This model is implemented by criminal justice personnel in a normal task, which can be done by the Public Prosecutor inviting the parties to conduct informal settlement with the goal, not to continue the prosecution if an agreement is reached; can be done by social workers or probation officer, by a police officer, or by a judge. This kind of informal intervention is common in all legal systems.

(b) "Traditional Village or Tribal Moots" Model

According to this model, the whole community met to solve the crime in the conflict between its citizens.

- This model is in some under developed countries and in rural areas.
- This model preferring benefits for society.
- This model predates western law and has provided inspiration for many modern mediation programs. Modern mediation programs often try to introduce the benefits of tribal moots in a form adapted to the structure of modern society and individual rights recognized by law.

(c) "Victim-Offender Mediation" Model

- Mediation between the victim and the perpetrator is the model most often present in people's minds.
- This model involves various parties meet in the presence of a mediator appointed. Many variations of this model. The mediator may come from formal official, independent mediator, or a combination.
- This Mediation can be held at any stage of the process, both at the police discretion stage, the prosecution stage, the sentencing or after sentencing stage.
- This model there is applied to all types of perpetrators of criminal acts; Nothing special for the child; there are for certain types of criminal offenses (eg shoplifting, robbery and violence). There are mainly aimed at the child offender, the offender beginners, but there are also for heavy offenses and even for recidivist.

(d) "Reparation Negotiation Programmes" Model

- This model is solely to estimate/assess compensation or repairs to be paid by the offender to the victim, usually during the examination in court.
- The program is not related to the reconciliation between the parties, but only with regard to the material improvement plan.
- In this model, the offender may be subject to a work program in order to save money to pay damages/compensation.

(e) "Community Panels or Courts" Model

This model is a program to divert cases from the criminal prosecution or judicial procedures more flexible society and informal, and often involve an element of mediation or negotiation.

(f) "Family and Community Group Conferences" Model

- This model has been developed in Australia and New Zealand, which involves community participation in the criminal justice system. Not only involves victims and perpetrators of criminal acts, but also the perpetrator's family and other community members, elected officials (such as police and judges child) and supporters of the victim.
- Actors and their families are expected to produce a comprehensive deal and satisfy the victim and can help to keep the offender out of trouble/next issue.

Penal mediation models (criminal) is then developed in several countries that reform in the field of criminal law of their respective countries, but in spite of it all, these models have advantages and disadvantages of each.

B. The Implementation of Penal Mediation in the Health Sector

In the current era of reform, the law plays an important role in every aspect of social life and state. To achieve optimal health status for each person, which is an integral part of well-being, the necessary legal support for the implementation of various activities in the health sector. Change the concept of thinking as the development of health is not inevitable. At the beginning of health development efforts rely on the treatment of diseases and health recovery, shifted to the implementation of comprehensive health efforts with an emphasis on disease prevention and health promotion. This paradigm is known in medical circles as a healthy paradigm. As a logical consequence of the receipt of the health paradigm that all activities of any kind must be oriented insight into the health, still doing the maintenance and improvement of the quality of individuals, families and communities and the environment and continuously maintain and improve health care quality, equitable, and affordable and to encourage self-reliance for a healthy life (http://www.hukor.depkes.go.id/?art=read)[22]. Therefore the paradigm shift that was originally thought that in building a developed nation should correct the first economic and infrastructure development of the country, then shifted to the idea that in building a developed nation, should be in line with the implementation of the development of good health.

Briefly to achieve optimal health status for each person it must be constantly carried concern in earnest for the implementation of national development vision of health, the guarantee of health care, increased professionalism, and does decentralization in health sector. Such activities, of course, require the adequate health law. The devices adequate health law intended for legal certainty and comprehensive protection for both providers and community health efforts recipient of health services (http://www.hukor.depkes.go.id/?art=read)[23].

Based on the definition of the Association for Indonesian Medical Law (PERHUKI) the statute of the organization Chapter 1 Article 1, the laws of health is defined as :

"All legal provisions that are directly related to the maintenance/health service and implementation as well as the rights and obligations of both individuals and all levels of society as a recipient of health care and of the organizers of health services in all aspects orgaisasi, facilities, national/international medical guidelines, legal health, jurisprudence, and science in medicine/health (Amri Amir in ocw.usu.ac.id/.../dms146_sap_upaya **kesehatan** dan **hukum**.pdf)[24].

Another definition is explained that the health law rules or laws governing the rights and obligations of health professionals, individuals and communities in the implementation of health measures, health organization and health facilities aspects. In addition, health law can also be defined as any legal or regulatory provisions that are directly related to the maintenance and health care. Health law role is to seek a balance of the order in health implementation effort made by the government and the public as well as ensuring legal certainty in accordance with the applicable health laws (http://statushukum.com/hukum-kesehatan.html)[25].

1. Legal Basis and Health Law Subject

The legal basis used in the health law is all the legislation and other regulations related to the health care law, regulations in question are :

- The Constitution of the Republic of Indonesia (UUD NRI 1945);
- Code of Criminal Law (KUH Pidana);
- Code of Civil law (KUH Perdata);
- Law of the Republic of Indonesia Number 36 Year 2009 on Health;
- Law of the Republic of Indonesia Number 29 Year 2004 on Medical Practice;
- Law of the Republic of Indonesia Number 36 Year 2014 on Health Workers;
- Regulation of the Government of the Republic of Indonesia Number 10 Year 1966 on Save Secret Medicine Required;
- Regulation of the Minister of Health of the Republic of Indonesia Number 290/MENKES /PER/III/2008 on Medical Action Consent; and
- Regulation of the Minister of Health of the Republic of Indonesia Number 269/MENKES/PER/III/2008 on Medical Record.

While that is the subject of health law there are two, namely patients and health workers, because these two subjects who have rights and obligations of each health sector. But the next question is who is the health workers ?. Health workers based on the Law of the Republic of Indonesia Number 36 Year 2014 on Health Workers, include :

a. Medical Personnel (consisting of doctors, dentists, doctors specialists, dentists specialists);
b. Clinical Psychology Personnel;
c. Nursing Personnel;
d. Midwifery Personnel;
e. Pharmacy Personnel;
f. Public Health Personnel;
g. Environmental Health Personnel;
h. Nutritional Personnel;
i. Therapy Physical Personnel;
j. Medical Technician Personnel;
k. Biomedical Engineering Personnel;
l. Traditional Health Personnel; and
m. Other Health Professionals.

The health workers have their respective control mechanisms, which is implemented through its own code of conduct drawn up by professional organizations and was subsequently accepted as a guideline for the implementation of the attitude and behavior of the profession. In other words, the profession has self-organizing and self-disciplining/self-control (Sofwan Dahlan, 2003)[26].

2. Penal Mediation (Criminal) in Health Sector

Penal mediation is one instrument of restorative justice concept. Would assume that determines the values of justice they want, not the judiciary. The involvement of law enforcement officials only as a mediator. Penal mediation is a dispute resolution method in handling cases-appropriate medical cases in Indonesia. This is because the majority of people still put a peaceful settlement (kinship) in the face of a case. This is a priority in Indonesian culture which continues to be maintained.

Compared to the proceedings were only considering legal facts and deeds that have been done, mediation has advantages due consideration the interests of each party. The mediation process is done behind closed and only attended by the parties and the mediator, which is bound to the ethics and code of conduct to maintain confidentiality. Avoid the offender (health workers) in prison and stigmatization as well as the association in prison tends to cause people to become recidive. Only penal mediation process is rarely practiced, and even then there are no studies that can show how big the statistical data used as a method of penal mediation settlement of medical cases, given the lack of legal protection that gives justification penal mediation in the case.

Penal mediation in practice appears as one alternative thinking in problem solving criminal justice system. It started from the discourse of restorative justice that seeks to accommodate the interests of victims and perpetrators of criminal acts, and to find a better solution for both sides, to overcome various problems of the criminal justice system of another. Penal mediation, which is part of the concept of restorative justice puts justice on the position of mediator.

Penal mediation is one way that can be achieved in solving the medical judge actions. With the mediation of the parties will meet to solve problems. Victim (patient) will be protected and is involved in every stage of decision-making, and most importantly, it was decided in mediation is really a need for the two sides (both patients and health professionals who commit negligence).

3. Appropriate Models that Penal Mediation in Health Law

Based on penal mediation model described in the previous section, then according to the analysis of the author, "victim-Offender mediation" which is penal mediation model who appropriate in handling medical cases, likely because mediation between the victim (patient) and actors (health workers) is a model that is most often present in people's minds. Another advantage of this model is mediation involving the various parties meet in the presence of a mediator appointed. Many variations of this model. The mediator may come from formal official, independent mediator, or a combination, so it depends on the agreement of the parties concerned.

Currently there is never any news or information about the penal mediation made in settling disputes between patients and health workers in Indonesia, but because there is no legal basis in Indonesia regulating medical settling disputes using penal mediation, is also a model for settling disputes (particularly in the health sector) is rarely heard for law enforcement. but for the creation of restorative justice which aims to achieve a win-win solution between the litigants, then this needs to be considered further in the future.

IV. CONCLUSION

The conclusion of the two problems above is first, mediation penal is a form of settling disputes by bringing the perpetrators of criminal acts (in the world of health, it is always the culprit is a health worker) with victim (patient) which aims to create a win-win solution among litigants. Discourse use of mediation in criminal matters associated with the issue of renewal of criminal law (penal reform) which are primarily aimed at the idea of giving protection to the victims, the idea of harmonization, the idea of restorative justice, the idea of overcoming stiffness/formalities within the existing system, the idea of avoiding the negative effects of the criminal justice system and the criminal system that exists today, particularly in the search for alternatives to imprisonment. Second, Penal Mediation is one way that can be achieved in solving the case-medical matters. With the mediation the parties will sit together to solve problems. Victim (patient) will be protected and is involved in every stage of decision-making, and most importantly, it was decided in mediation is really a need for the two sides (both patients and health workers). "victim-offender mediation" "victim-Offender mediation" is mediation model that appropriate penal judge actions in addressing the medical, although until now there has never been news or information about the penal mediation made in settling disputes between patients and health workers in Indonesia.

REFERENCES

[1]. http://lbhmawarsaron.or.id/eng/index.php?option=com_content&view=article&id=192:pendekatan-restorative-justice-dalam-sistem-pidana-indonesia&catid=71&Itemid=190
[2]. http://lbhmawarsaron.or.id/eng/index.php?option=com_content&view=article&id=192:pendekatan-restorative-justice-dalam-sistem-pidana-indonesia&catid=71&Itemid=190
[3]. Soerjono Soekanto dan Sri Mamudji, 2011, Penelitian Hukum Normatif, Cetakan Ke-13, Jakarta: Rajawali Pers
[4]. Peter Mahmud Marzuki, 2010, Penelitian Hukum, Cetakan Ke-6, Jakarta: Kencana Prenada Media Group.
[5]. Salim HS. dan Erlies Septiana Nurbani, 2013, Penerapan Teori Hukum Pada Penelitian Tesis Dan Disertasi, Cetakan Ke-1, Jakarta: Rajawali Pers.
[6]. Matthew B. Miles dan A Michael Huberman, 2009, Analisis Data Kualitatif, Buku Sumber Tentang Metode-Metode Baru, Cetakan 1, Alih bahasa oleh Tjetjep Rohendi Rohidi, Jakarta: UI-Press.
[7]. Soerjono Soekanto, 2012, Pengantar Penelitian Hukum, Cetakan Ke-3, Jakarta: UI-Press.
[8]. New York State Dispute Resolution Association, Inc., Alternative Dispute Resolution in New York State, An Overview; cited by Barda Nawawi Arief, 2010, Mediasi Penal: Penyelesaian Perkara Pidana Di Luar Pengadilan, Semarang: Pustaka Magister, it can also be accessed at http://bardanawawi.wordpress.com/2009/12/27/mediasi-penal-penyelesaian-perkara-pidana-di-luar-pengadilan/
[9]. Law of the Republic of Indonesia Number 30 of 1999 on Arbitration and Alternative Dispute Resolution.
[10]. Barda Nawawi Arief, 2010, *Op.Cit.*
[11]. *Ibid*.
[12]. *Ibid*. See also Detlev Frehsee (Professor of Criminology and Criminal Law, University of Bielefeld, Germany), "Restitution and Offender-Victim Arrangement in German Criminal Law: Development and Theoretical Implications", accessed at http://wings.buffalo.edu/law/bclc/bclr.htm
[13]. Mushadi, 2007, Mediasi dan Resolusi Konflik di Indonesia, Semarang: Walisongo Mediation Center.
[14]. Muladi, 1997, Hak Asasi Manusia, Politik dan Sistem Peradilan Pidana, Semarang: Badan Penerbit Universitas Diponegoro, cited by Sahuri Lasmadi, Mediasi Penal Dalam Sistem Peradilan Pidana Di Indonesia (Makalah), Jambi: Universitas Jambi.
[15]. United Nations Office For Drug Control and Crime Prevention, 1999, Handbook on Justice for Victims, New York: Centre for International Crime Prevention.
[16]. Sahuri Lasmadi, *Op.Cit*.
[17]. Stefanie Tränkle, The Tension between Judicial Control and Autonomy in Victim-Offender Mediation a Microsociological Study of a Paradoxical Procedure Based on Examples of the Mediation Process in Germany and France, accesed at http://www.iuscrim.mpg.de/forsch/krim/traenkle_e.html. Cited by Barda Nawawi Arief, *Op.Cit.*
[18]. Barda Nawawi Arief, *Ibid*.
[19]. Laely Wulandari, Kebijakan Penanganan Kekerasan Dalam Rumah Tangga Melalui Mediasi Penal, Makalah.
[20]. *Ibid*.
[21]. accessed at sfm.jura.uni-sb.de/archives/images/ mediation-en%5B1%5D.doc cited by Barda Nawawie Arief, *Op.Cit.*
[22]. http://www.hukor.depkes.go.id/?art=read
[23]. *Ibid*.
[24]. Amri Amir, Upaya Kesehatan dan Hukum, (handout) accesed at ocw.usu.ac.id/.../dms146_sap_upaya_**kesehatan**_dan_**hukum**.pdf
[25]. http://statushukum.com/hukum-kesehatan.html
[26]. Sofwan Dahlan, 2003, Hukum Kesehatan, Rambu-Rambu Bagi Profesi Dokter, Edisi 3 Semarang: Universitas Diponegoro.