

Terms of Reference for Activities

Community Practices: Linking Knowledge, Policy and Practice Implementation of Restorative Justice in Indonesia and Australia

Australian Embassy, 4 and 5 December 2018

The Australian Law and Justice Development Community of Practice is an initiative of the Australian National University (ANU) and comprises of a group of people who are academics and practitioners with a common interest in the field of law. They have a shared interest on particular legal topics and engage on an ongoing basis through discussions and interactions to enhance their knowledge and expertise. On December 4 and 5 2018, Australia National University in collaboration with the Department of Foreign and Trade (DFAT) and Cardno Indonesia will hold an annual discussion involving experts from Australia and Indonesia. The theme of this annual discussion is: "*Implementation of Restorative Justice in Indonesia and Australia*".

This *Restorative Justice* theme coincides with the initiative from Bappenas (the Indonesian National Planning Bureau) to promote the implementation of *Restorative Justice* in the Indonesian Criminal Justice System and within the National Medium-Term Development Plan (RPJMN) 2020-2024. Through the implementation of *Restorative Justice*, it is expected that victims, perpetrators and community members affected by a criminal act are directly involved in the response to the crime as a means for their own recovery. By engaging victims, perpetrators, or other affected parties, it is envisaged this will help restore the social balance that existed prior to the occurrence of the crime.

There are a variety of arguments and underlying reasons underpinning the approach of *Restorative Justice* in the criminal justice system, which include: the current dissatisfaction with the results of the criminal justice system; the lack of legal standings for victims; and insufficient evidence on the effectiveness of deterrence through punishment. Also, one of the major problems with always punishing perpetrators in the criminal justice system is the capacity of prisons. At present, *Restorative Justice* is seen as one of the promising approaches that can be applied in the criminal justice system which provides justice for the community. However, the implementation of *Restorative Justice* in the Indonesian criminal justice system is not a straight forward matter. A foundation and systematic plan is required which maps the challenges and opportunities in the implementation of *Restorative Justice* in Indonesia.

Agenda

Day 1 – Tuesday, 4 December 2018

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| 08.00 – 08.30 | Registration and coffee/tea |
| 08.30 – 08.40 | Welcoming -
Prof. Veronica Taylor |
| 08.40 – 08.55 | Introduction and Opening –
Allaster Cox, Deputy Head of Mission, Australian Embassy |
| 08.55 – 09.00 | Security and Logistics Briefing –
Irene Insandjaja, DFAT |
| 09.00 – 09.45 | Promoting the implementation of Restorative Justice as a strategy in realizing Quality Law Enforcement
Prahesti Pandanwangi SH, Spd, LLM, Director of Law and Regulation Bappenas |
| 09.45 – 10.00 | Coffee/Tea Break |
| 10.00 – 12.00 | <i>Restorative Justice</i> Perspective and Development in Indonesia

<ol style="list-style-type: none">1. Positioning <i>Restorative Justice</i> in Indonesian Legal Reform
Prof. Harkristuti Harkrisnowo, Universitas Indonesia2. Australia’s Experience in Implementing <i>Restorative Justice</i>
Prof. John Braithwaite, Australia National University
Moderator: Wiwiek Awiati |
| 12.00 – 13.00 | Lunch Break and pray time |
| 13.00 – 15.30 | Penal Mediation, Deferred Prosecution and Non-Custodial Sentencing

<ol style="list-style-type: none">1. Prospect of Implementation of <i>Restorative Justice</i> in victimless crime
Dr. Simplex Asa, Universitas Nusa Cendana, NTT2. Application of <i>Restorative Justice</i> in the Juvenile Criminal Justice System (SPPA)
Dr. Sulastri Dewi – Hakim Pengadilan Tinggi Lampung/Anggota Kelompok Kerja3. Opportunity for the implementation of <i>Restorative Justice</i> in the existing Indonesian Criminal Justice System |

Arsil – Institute for Study and Advocacy for Independence of the Judiciary (LeIP)

Reviewers: Prof. John Braithwaite and Prof. Veronica Taylor, - Australian National University

Moderator: Erasmus Napitupulu - Institute for Criminal Justice Reform (ICJR)

Day 2 – Wednesday, 5 December 2018

08.30 - 09.00 **Registration and Coffee**

09.00 – 12.00 **Repairing Communities through Restorative Justice System**

1. *Restorative Justice* in Domestic and Sexual Violence

Azriana Manalu – Ketua Komnas Perempuan

2. Restorative Justice practices in community based adat / customary law

Lalu Mariyun – Ketua Bale Mediasi Nusa Tenggara Barat

3. How to create a sense of community and preventing crimes through Restorative Justice Practices

Pauline Webb - Community Justice Adviser, Justice Services and Stability for Development (JSS4D), Papua New Guinea

Reviewers: Prof. Veronica Taylor - Australian National University

Moderator: Dr. Eva Achjani Zulfa – Universitas Indonesia

12.00-13.00 **Lunch Break**

13.00 – 15.00 **Consultative Discussion (Limited Invitation)**

Facilitator: Leopold (Leo) Sudaryono

15.00 – 15.30 **Reflection and Next Steps**

Facilitator: Prof. Veronica Taylor - Australian National University

List of Invitees

Bappenas

1. Deputi Bidang Polhukhankam, Bappenas
2. Direktur Hukum dan Regulasi, Bappenas

Supreme Court RI

3. Ketua Kamar Pidana, Mahkamah Agung RI
4. Ketua Pengadilan Tinggi Jakarta
5. Ketua Pengadilan Negeri Jakarta Pusat
6. Ketua Pengadilan Negeri Jakarta Barat
7. Ketua Pengadilan Negeri Jakarta Timur
8. Ketua Pengadilan Negeri Jakarta Utara
9. Ketua Pengadilan Negeri Jakarta Selatan

Judicial

10. Jaksa Agung Muda Bidang Tindak Pidana Umum
11. Ketua Kejaksaan Tinggi Jakarta
12. Ketua Kejaksaan Negeri Jakarta Pusat
13. Ketua Kejaksaan Negeri Jakarta Barat
14. Ketua Kejaksaan Negeri Jakarta Timur
15. Ketua Kejaksaan Negeri Jakarta Utara
16. Ketua Kejaksaan Negeri Jakarta Selatan

Police

17. Kapolda Metro Jaya
18. Kepala Badan Reserse Kriminal, POLRI
19. Kapolres Jakarta Timur
20. Kapolres Jakarta Utara
21. Kapolres Jakarta Barat
22. Kapolres Jakarta Selatan
23. Kapolres Jakarta Pusat
24. Kepala Unit PPA Polda Metro Jaya

Ministry of Law and Human Rights

25. Kepala Badan Pembinaan Hukum Nasional (BPHN)
26. Direktur Jendral Peraturan Perundang-Undangan
27. Direktur Jenderal Lembaga Pemasarakatan
28. Direktur Bimkemas dan Pengentasan Anak
29. Kepala Badan Pemasarakatan

Ministry of Social

30. Direktur Jendral Rehabilitasi Sosial

31. Direktur Bidang Hukum dan Kerjasama

National Narcotics Bureau

32. Deputi Pemberantasan
33. Deputi Bidang Hukum dan Kerjasama

Ministries/Organisations

34. Komisi 3 DPR RI
35. Kantor Sekretariat Presiden
36. Direktur Jenderal Bina Upaya Kesehatan Kementerian Kesehatan Republik Indonesia
37. Ketua Lembaga Perlindungan Saksi dan Korban (LPSK)
38. Ketua Komnas Perempuan
39. Ketua Komisi Perlindungan Anak Indonesia (KPAI)

Law Faculties

40. Dekan Fakultas Hukum, Universitas Indonesia
41. Dekan Fakultas Hukum, Universitas Pancasila
42. Dekan Fakultas Hukum, Universitas Atmajaya
43. Dekan Fakultas Hukum, Universitas Trisakti
44. Dekan Fakultas Hukum dan Syariah, UIN Ar Raniry, Aceh
45. Dekan Fakultas Hukum dan Syariah, UIN Sunan Gunung Djati, Bandung
46. Dekan Fakultas Hukum dan Syariah, UIN Syarif Hidayatullah, Jakarta
47. Kepala STIH Jentera

Community Organisations

48. MaPPI
49. LeIP
50. ICJR
51. CDS
52. LBH APIK
53. Pekka
54. ICJ Makassar
55. Sahabat Kapas (Solo)
56. Rifka Anisa (Yogya)
57. LPA NTB (Mataram)
58. LBH Makassar
59. LBH Aceh
60. PSHK

Development Partners

61. IRJI UNDP
62. The Asia Foundation
63. UNICEF
64. DFAT Development Cooperation Law and Justice Port Moresby, Papua New Guinea
65. DFAT Justice, Australian High Commission, Honiara, Solomon Islands
66. DFAT Law and Justice Section, Canberra, Australia

