

ABSTRACT

The title of this research is Sentencing on Criminal Defamation. This research focused as follows : (1) Ratio legis of Criminal Defamation, (2) Ratio Decidendi of court ruling against criminal defamation cases (3) The Formulation of Sentencing of Criminal Defamation in the future laws. This research is legal research, therefore this research is normative. This research is using statute approach, conceptual approach), case approach and comparative approach

The study then concluded as follows: (1) The basic of criminal defamation is equality principle. To criminalize defamation aims to achieving public order and reinforcement of public cmoral by protecting the honor and reputation of a person ; (2) In cases related to criminal defamation, The judge of the Constitutional Court consider the honor and reputation which is constitutitional right as a primary consideration, while the judges in the District Court consider the suitability of the element of criminal defamation; (3) Reformulation of criminal defence referred to Article 310 paragraph 3 Criminal Code as renewal of regulating of criminal defamation and punishment based on restorative justice can be punishment to the criminal defamation in the future

The study recommend as follows : (1) Maintaning the regulation of criminal defamation in the future criminal code ; (2) Considering insulting norms prohibition and the object of defamation in prosecuting the constitutional review of criminal defamation cases. The judges of the court should consider the criminal defence of criminal defamation and not only the suitability of the element of criminal defamation ; (3) Stating strictly of the statements or opinions that are not criminal defamation and enacting compensation and reparative measure as a kind of criminal sanctions of criminal defamation in the formulation of the draft Penal Code

Keywords : sentencing, criminal defamation, criminal defence, restorative justice