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ANALYSIS OF THE ROLE OF THE CIREBON DISTRICT ATTORNEY'S OFFICE IN THE TERMINATION OF PROSECUTION BASED ON RESTORATIVE JUSTICE

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Abstract:

Background: The criminal law system in Indonesia continues to change to follow the community's demands for fair laws. One method that is getting more and more attention is restorative justice, which aims to solve criminal problems by rehabilitating communities, perpetrators, and victims rather than simply providing punishment.

Aims. This research aims to better understand how the Cirebon District Attorney's Office implements the restorative justice process, its foundation, and the impacts and challenges faced in its implementation.

Method: The methodology used is an Empirical law study using qualitative research parameters. Primary data is the main data, and secondary data functions as supporting data. Primary data can be obtained through interviews, and secondary data can be obtained through literature studies and interviews with relevant prosecutors who have applied Restorative **Justice** to handle a case.

As a result, the research shows that the Cirebon District Attorney's Office has played an active role in implementing the dismissal of charges based on restorative justice in line with the Attorney General's Office Number 15 of 2020 guidelines.

Conclusion and

Implications. In practice, the prosecutor plays the role of a facilitator in mediation between the perpetrator and the victim, ensuring that a wise agreement is reached and fulfilling a sense of justice for all parties. However, the challenges include the lack of public understanding of restorative justice. In some cases, the victim or their family is reluctant to reconcile because they think stopping the prosecution will reduce the deterrent effect for the perpetrator. This is especially the case in cases of minor abuse, where the victim feels that the legal process should still be ongoing to provide lessons for the perpetrator.

Keywords: Restorative Justice, District Attorney's Office

INTRODUCTION

Indonesia's criminal justice system continues evolving to adapt to the community's needs in enforcing fair laws. One approach that is getting more and more attention is restorative justice, which aims to resolve criminal cases with an emphasis on restoring communities, perpetrators, and victims, rather than just providing punishment. One of the law enforcement agencies is the Prosecutor's Office, which has a strategic role in implementing this approach, especially in its authority to stop the prosecution of some instances under the principles of *restorative justice*. Terminating *restorative justice prosecutions* is an alternative solution to reduce the burden of cases in the court while providing space for more accommodating and humane court resolutions. The Attorney General's Office of the Republic of Indonesia has released **Prosecutor's Regulation (Perja) Number 15 of 2020 concerning the Termination of Restorative Justice-Based Prosecutions**, allowing prosecutors to stop prosecutions if there is a peace agreement between the victim and the perpetrator, and it meets the specified conditions. The purpose of

this strategy is to benefit the community more broadly, including avoiding the negative impact of imprisonment on perpetrators who are not recidivists or serious criminals.¹

At the regional level, the implementation of restorative justice is a challenge in itself. **The Cirebon District Attorney's Office**, as one of the law enforcement agencies at the local level, is responsible for implementing this policy under social and legal conditions in its area. Although the concept of restorative justice provides many advantages in theory, practice in the field does not always run smoothly. Various factors, such as public understanding of the readiness of law enforcement personnel and restorative justice, as well as the limitations of technical regulations, are often obstacles to their implementation.

In some cases in Cirebon Regency, the restorative justice approach has yielded positive results, especially in resolving petty criminal cases involving parties with close social ties, such as cases of petty mistreatment or petty theft. Settling cases through this mechanism reduces the number of cases that must be processed in court and helps restore social relationships that may have been damaged by criminal acts. In addition, restorative justice allows victims to recover faster than if the case had to go through a long and complex judicial process.

However, various obstacles still need to be considered in its implementation. One of them is the perception that restorative justice can be used to avoid legal proceedings by criminals. Some people still think that the ideal justice system provides strict punishment for criminals, so the concept of recovery is considered less of a deterrent. In addition, in some cases, the victim or their family is reluctant to reconcile because they consider the legal process the only way to obtain justice.²

Another challenge is the limitation of technical guidance in implementing restorative justice at the local prosecutor's level. Although Perja Number 15 of 2020 has outlined the legal framework for the termination of restorative justice-based claims, more detailed regulations are still needed to determine the criteria for cases that can be resolved through this mechanism. In addition, community involvement in the restorative process is also an important factor that needs to be considered so that this strategy functions as well as possible and receives support from various parties.

¹ Fajri, M. (2023). "The Role of the Prosecutor's Office in Termination of Prosecution Based on Restorative Justice." *Journal of Law and Society*, **5**(1), 78-92.

² Attorney General's Office of the Republic of Indonesia. (2020). *Regulation of the Prosecutor's Office of the Republic of Indonesia Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice*. Jakarta: The Attorney General's Office of the Republic of Indonesia.

With various dynamics occurring, the analysis of the role of the Cirebon District Attorney's Office in stopping restorative justice-based prosecutions has become very relevant. This study will not only provide an overview of the extent to which this policy has been implemented but also identify the obstacles that have arisen and opportunities to improve the effectiveness of its implementation in the future. Successful use of restorative justice at the local level will contribute to criminal justice reform efforts that prioritize rehabilitation and achieve a balance between social and legal interests.

This study aims to ascertain how Prosecutor's Regulation Number 15 of 2020 regulates restorative justice and how it can be applied in the prosecution of the Prosecutor's Office of the Republic of Indonesia. This analysis can be concluded:

1. There must be a recovery under the implementation of Prosecutor's Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice; In this case, where the two parties related agree to make amends (reconcile)
2. Examine the basis of the prosecutor's legal ability to apply *restorative justice*, both in the Criminal Code and other relevant rules
3. Analyze the benefits and objectives of the prosecutor's office's implementation of restorative justice in an effort to realize justice that is more oriented towards the recovery of victims and perpetrators, not just punishment.

This research aims to understand how the Cirebon District Attorney's Office carries out the restorative justice process. By evaluating the process and results of the termination of prosecution, this research can affect the ability of the prosecutor's office to achieve justice. The results of this analysis should provide a clear picture of the difficulties and successes faced by legal institutions in this situation.

METHOD

This research is focused on the main problem, namely, the role of the Cirebon District Attorney's Office in implementing effective *restorative justice* to resolve minor legal cases and achieve recovery for victims and perpetrators.

Based on the main problem of such research, this study applies empirical legal research methodology as a qualitative research requirement. This study uses primary data used for primary data, then secondary data is used as supporting data. Primary data was collected through interviews, and secondary data was collected through literature research—

interviews with relevant prosecutors who have conducted Restorative *Justice* to handle cases.

RESULTS AND DISCUSSION

The role of the prosecutor's office in stopping the prosecution of criminal acts based on restorative justice

The following policies serve as the basis for several policies to support the application of restorative justice in the settlement of criminal cases as a means of human rights enforcement, including: First, the criminal justice system has been criticized for not providing options to victims, especially (*criminal judicial system that deprives people of their rights*); Second, resolving disputes, especially those involving perpetrators, victims, and the community (*removing the turmoil from their lives*); Third, the need to overcome the sense of powerlessness caused by criminal behavior in *order to make amends* (Aertsen *et al.*, 2011).³

According to the Attorney General's Regulation (Perja) No. 15 of 2020, the Prosecutor's Office refers to using *the Restorative Justice* strategy in the procedure for implementing the law to resolve cases. Settling a case by bringing together the perpetrator, the victim, the victim's family, and other related parties to pursue a just resolution collaboratively emphasizes returning to the starting point known as restorative justice and not a form of retaliation. Justice, public interest, and proportionality are the first choices, while criminal justice is the last option. Then, regarding speed, convenience, and affordability, the prosecution guidance concept is based on Restorative Justice's principles.

The Prosecutor's Office in Cirebon Regency has implemented restorative justice to stop the prosecution of criminal cases with Prosecutor's Regulation (Perja) Number 15 of 2020. This regulation authorizes prosecutors to stop prosecuting certain criminal cases, especially those involving perpetrators who are not recidivists, provided there has been harmony between the victim and the perpetrator. From the results of interviews with the prosecutor's office, it is known that the mechanism for implementing restorative justice in Cirebon Regency generally goes through the following stages:

³ Aertsen, I., Bolívar, D., Mesmaecker, V. De, & Lauwers, N. (2011). Restorative Justice and the Active Victim: Exploring the Concept of Empowerment. *Journal of TEMIDA*, 5–19.

1. Case Selection – The prosecutor conducts an initial assessment of cases that meet the criteria of restorative justice, such as a misdemeanor or a case that does not have a broad impact on the community.
2. Mediation – If the perpetrator and victim are willing to reconcile, the prosecutor's office facilitates mediation by involving various parties, including families, community leaders, and other law enforcement officials.
3. Evaluation and Decision – After reaching an agreement, the prosecutor drafts a report and submits a recommendation for the termination of the prosecution to the prosecutor's leadership.
4. Endorsement and Publication – If approved, the decision to terminate the prosecution is announced and documented as part of the prosecutor's performance report.

According to Anwar Hendra A, S.H., M.H. One of the prosecutors at the Cirebon District Attorney's Office, he stated that there will be 11 (eleven) cases in 2024 and 2 (two) cases in 2025 which will be resolved using the restorative justice mechanism. Most of these cases involve minor criminal acts such as petty theft, petty mistreatment, narcotics (the condition that the suspected user is not proven to be tied to the drug network), and family disputes, One of the cases that he handled that was resolved through restorative justice was bicycle theft, amounting to Rp2,500,000.00 (two million five hundred thousand rupiah) was a loss borne by the victim. The settlement in the case uses the method of restorative justice because it is forgiven by the victim, in this case the prosecutor facilitates mediation involving several groups such as the suspect's family, the victim's family, and community leaders, as a result of this mediation, the victim forgave the suspect and community leaders were very surprised when the suspect committed the crime because community leaders have been aware that the perpetrator behaved well in the community where the perpetrator does not make a fuss. Upon consideration of the results of the mediation, the prosecutor also surveyed the suspect's house to determine whether it was feasible for the suspect to get restorative justice.⁴

He also explained that now there are new rules related to the implementation of restorative justice, if the implementation of restorative justice is approved and the prosecution is stopped, there are social sanctions for the suspect and this is carried out social

⁴ Lestari, W. (2022). "Evaluation of the Implementation of Restorative Justice in the Regional District Attorney's Office ." *Indonesian Journal of Criminology*, **11**(2), 125-138.

sanctions to create a deterrent effect for the perpetrator not to commit criminal acts in the future.

According to Perja No. 15 of 2020 issued on July 22, 2021, the Restorative Justice Policy should be able to resolve petty crime cases (tipiring) without needing a court hearing. Since the issuance of the Perja, 300 cases have been suspended by prosecutors across the country. The purpose of the Perja is to restore the situation to its previous state, before the "damage" created by the defendant's actions.

Those who are "entitled" to restorative justice must meet the following requirements:

1. Where the criminal incident committed by the suspect was the first time.
2. It's just that a fine or a maximum sentence of 5 years in prison is used to threaten criminal activities; and
3. Criminal acts committed where evidence of Rp2,500,000.00 is at most as a loss due to the violation.

In addition, this regulation seeks to reduce prison overcrowding, a problem that plagues Indonesian prisons. Furthermore, the purpose of this Perja is to immediately improve social conditions in society and reduce the deviation of prosecutorial power. In response to public dissatisfaction with the law, which is also among the policies that have been trending so far, which is increasing but decreasing sharply.

According to the criteria set, the prosecution of criminal cases can be stopped for at least several reasons, including:

1. First, a peace process is carried out where the victim and the suspect offer an apology (forgive each other)
2. Second, the threat of imprisonment does not exceed 5 years, and losses occur < IDR 2,500,000.00 (in commodities)
3. Third, the suspect promised to refrain from acting in the same way again.
4. Fourth, without coercion, intimidation, or pressure, the peace process is carried out voluntarily through discussion and consensus-building
5. Fifth, the victim and the suspect decided not to go to trial because they did not think that it would be useful
6. Sixth, consider from a sociological aspect
7. Seventh, the community gave a positive response.

One of the innovations made by Attorney General ST Burhanuddin in an effort to provide legal clarity to the general public is this regulation. At the global level, ST

Burhanuddin echoed this policy. In the event with the theme "Integrated Approaches to Challenges Facing the Criminal Justice System", in the Indonesian criminal justice system, restorative justice techniques are comprehensive strategies that include investigation, prosecution, and imposition of court orders. According to Burhanuddin, restorative justice can reduce the congestion of inmates in correctional institutions and speed up the protracted legal process. In light of this success, the reform pillar of the Attorney General's Office was once again put in place. However, public involvement is needed to ensure that the prosecutor's office regains its respect.

When exercising the power of law enforcement, we must avoid getting mired in procedural justice and legal certainty, ignoring substantive justice, which is the main goal of law, despite the fact *that Equum et bonum est lex legum* (what is good and just is law) must be kept in mind.

In the criminal justice system in Indonesia, the police have the authority to conduct investigations, the prosecutor's office has the authority to file charges, and the court has the authority to impose sentences. They can apply and hold the law themselves.

Many case settlements are sought through the legal system, in this case, the criminal court system. The public must acknowledge the many complaints about settling cases in the criminal justice system. The existence of unfavorable facts, where litigation often takes a lot of time, and the cost is expensive and seen as complicated, cannot fulfill a sense of justice in society. Naturally, some variables contribute to the inefficiency and ineffectiveness of the system in resolving laws (*legal substance*), law enforcement (*legal structure*), and customs and culture (*legal culture*).⁵

One of the state institutions authorized by law to carry out law enforcement is the prosecutor. The Prosecutor's Office of the Republic of Indonesia, also known as the Prosecutor's Office is an organization in which the Prosecutor's Office is organized to carry out its responsibilities. The prosecution of criminal matters is the primary responsibility of the Prosecutor's Office. The prosecutor has the authority to decide whether or not a case can be pushed to court as well as the application of articles that can be indicted, things like this are the prosecutor's task of prosecution.

The ability of the Public Prosecutor to end the *Restorative Justice principle* is carried out in accordance with Article 4 of Perja Number 15 of 2020 by remembering:

⁵ Fauzia, A., Hamdani, F., & Octavia, D. G. R. (2021). The Revitalization of the Indonesian Legal System in the Order of Realizing the Ideal State Law. *Progressive Law Review*, 3(1), 12–25.

1. The interests of the victim, along with other interests they are legally protected
2. Discriminatory actions to be avoided
3. Avoiding Revenge
4. harmony and response of the audience; and
5. Public order, decency, and propriety.

Along with the factors listed above, the Public Prosecutor also considers the following when deciding whether to terminate a prosecution based on restorative justice:

1. classification, subject, object, and danger of criminal activity;
2. Context of Action Punishment
3. level error
4. Losses or the effect of the action Punishment
5. Costs and Profits (*cost and benefit*) from the Case
6. Restoration Circumstances Backg. The emergence of peace Between the Suspect and the Victim.⁶

The breakthrough in solving criminal acts is the establishment of Perja No. 15 Year 2020, which gives power to the prosecutor in stopping the prosecution process based on *restorative justice*. The crime-solving strategy that is currently gaining traction in several countries is *restorative justice*. By prioritizing *win-win solutions* Solution As well as emphasizing that compensation is redeemed where the victim forgives the perpetrator, the restorative justice method aims to bring harmony between the victim and the criminal.

The role of prosecutors in the peace process of the parties is limited to facilitators; According to article 9 of the Criminal Code, the role of the prosecutor as a facilitator includes the following duties:

1. To carry out peace initiatives, namely the proposed procedure for the dismissal of prosecution based on the application of restorative justice
2. Serves as a roadmap for peaceful proceedings between the victims and the defendants
3. Creating peace agreements, conducting peaceful audits, and overseeing peaceful implementation
4. Continue or stop activities in accordance with the implementation and conclusion of the peace process.

⁶ Mahendra, & Prima, A. (2020). Penal Mediation at the Investigation Stage Based on Justice Restorative. *Journal of Jurist-Diction*, 3(4), 1153–1178.

Positive Impact of the Implementation of Restorative Justice

The study's results show that restorative justice in Cirebon Regency has several beneficial effects on perpetrators, victims, and the criminal justice system as a whole.

Reduction of the Court's Burden

One of the main benefits of restorative justice is the reduced number of cases that must be processed through the formal justice system. Based on the prosecutor's data, minor cases that entered the Cirebon district attorney's office in one year were successfully resolved without the need for a trial. This not only saves judicial resources but also speeds up the resolution of cases

Recovery for victims and perpetrators

The restorative approach allows the victim to obtain immediate compensation, either in the form of an apology, compensation, or other actions agreed upon in the mediation process. For perpetrators, especially those who are violating the law for the first time, restorative justice provides an opportunity to improve themselves without having to serve a prison sentence. Many perpetrators stated that the mediation process made them more motivated and responsible for their actions so as not to repeat the mistake.

Increased public participation in the legal process

The Cirebon district attorney's office also involves community leaders in the mediation process, so the public better understands the concept of restorative justice. In some cases, the role of the community is crucial in encouraging victims and perpetrators to reach a peaceful agreement.

Challenges in the Implementation of Restorative Justice

Although the application of restorative justice provides many benefits, several challenges are still faced in its implementation in Cirebon Regency, and some people still think that justice can only be achieved through severe criminal punishment. In some cases, the victim or their family is reluctant to reconcile because they think stopping the prosecution will reduce the deterrent effect for the perpetrator. This is especially the case in cases of minor abuse, where the victim feels that the legal process should still be ongoing to provide lessons for the perpetrator. Although Perja Number 15 Years 2020 has conveyed the legal basis for restorative justice; there are still limitations in technical aspects. For example, there

is no clear standard about the amount of compensation that needs to be awarded to victims in the mediation process, so decisions often depend on informal negotiations. In addition, in some cases, prosecutors face difficulties in determining whether a case is worth resolving through restorative justice or should still proceed to court. The absence of more detailed technical guidelines often makes the case selection process subjective and dependent on the policies of each regional prosecutor's office.

Sub-title of discussion

The Cirebon District Attorney's Office plays a crucial role in implementing the principles of restorative justice through the termination of prosecution, which aims to achieve a more humane and restorative-oriented settlement. In this context, implementing restorative justice includes a mediation process between perpetrators and victims and involves the community to create mutually beneficial solutions. Despite successfully resolving many cases peacefully, the District Attorney's Office also faces various challenges, such as a lack of public understanding of restorative justice and limitations in determining the criteria for cases that qualify for termination of prosecution. The impact of the application of restorative justice is not only seen in the settlement of cases, but also contributes to the restoration of social relations in society, reduces stigma against perpetrators, and increases a sense of justice for victims. Thus, the role of the Cirebon District Attorney's Office is crucial in building a justice system that is more responsive and inclusive to the community.

CONCLUSION

Application of the concept of justice Restorative justice is based on the rules of justice Criminal proceedings are not only oriented towards the peaceful termination of the process. However, it prioritizes recovery, victim engagement, and efforts to find future solutions to the crimes that have already occurred. Using this method allows both the victim and the perpetrator to take an active part in each stage and offer solutions to the options they can agree on. Since restorative justice focuses on finding solutions to restore and provide a sense of justice rather than determining what punishment is appropriate, the author agrees with Soekardi that restorative justice can be applied to all types of criminal acts.

The current Criminal Code. Many problems of the criminal justice system can be overcome by adding the idea of restorative justice, which was developed to address the shortcomings of the retributive justice legal system. According to the results of research

conducted in Cirebon Regency at the district attorney's office, after the implementation of PERJA No. 15 of 2020, the Cirebon District Attorney's office has resolved 11 (eleven) cases in 2024 and 2 (two) cases in 2025 using a restorative justice approach *Justice*).

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