

Implementation of Termination of Case Prosecution on the Crime of Persecution in the Perspective of Restorative Justice

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Abstract

A criminal act is an unlawful act committed by a person and deserves to be punished according to his mistake as formulated in the Act. The sense of justice that is expected from law enforcement has not been enjoyed by the people in this country. Moreover, as is known, the criminal justice system in Indonesia does not regulate many victims. So it can be concluded that the principle of Restorative Justice is a choice in designing a country's legal system. This legal writing uses a sociological juridical approach with descriptive research type to present a complete picture by describing a number of variables related to the problem under study. The data used are primary data and secondary data. Methods of data collection is done by literature study and interviews. The data analysis method used is qualitative analysis. The results of the study showed that The application of the principle of Restorative Justice in the Pemasang District Attorney's Office based on the Prosecutor's Regulation Number 15 of 2020 has been implemented, where in this application the Prosecutor's Office prioritizes restoration efforts (restorative) in cases of persecution. For the obstacles faced in the application of Restorative Justice, among others, in the prosecutor's regulation itself there is no information about what parameters the public prosecutor uses in deciding a criminal case, families who do not want to forgive the perpetrators' mistakes and understanding of the implementation of the Restorative Justice approach. Efforts have been made to socialize the regulations by the prosecutor's office to the public so that the public understands the rules and restorative approaches, as well as the application of the Attorney General's Regulation No. 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, which must be more efficient and not go through too many processes.

Keywords: Cessation of Prosecution, Persecution, Restorative Justice.

1. Introduction

In general, it can be said that the target to be addressed by criminal law is to protect the interests of the community and individuals from unpleasant actions due to a violation by someone. Criminal law not only focuses on the protection of society, but also individuals, so as to create balance and harmony.

A criminal act is an unlawful act committed by a person and deserves to be punished according to his mistake as formulated in the Act. The person who commits a criminal act will be responsible for the act with a criminal if he has a mistake.

Crime according to the eyes of Restorative justice, is a violation against humans and human relations. Restorative justice, can be implemented through: Mediation of victims with offenders, family group meetings, community services that are rehabilitative for both victims and perpetrators The application of the principles of

restorative justice depends on what legal system a country adheres to. If the legal system does not want it, then the application of Restorative Justice cannot be forced.

Based on the above background, the problems that can be described are as follows:

- a. What is the form of implementation of the termination of the prosecution of cases on the Crime of Persecution in the Perspective of Restorative Justice?
- b. What are the obstacles to the implementation of stopping prosecution of cases of the Crime of Persecution in a Restorative Justice Perspective?
- c. What is the solution to the obstacles in implementing the termination of prosecution for the Crime of Persecution in the Perspective of Restorative Justice?

2. Research Method

Method The approach used in writing this law is a sociological juridical method. The sociological juridical approach method is carried out based on the problems that occur in society, both actions taken by humans in the community, as well as the implementation of law by social institutions. The type of research from this legal research is descriptive, namely to describe a number of variables relating to the problem under study.

The types and sources of data used in this paper are the types of primary data and the types of secondary data which includes primary legal materials, secondary legal materials, and tertiary legal materials. The method of data collection is done by literature study (library research) is a data collection technique by conducting a review study of related books, literatures, notes, and reports. a with the problems discussed and interviews at the Pemalang District Attorney's Office. In writing this law, the data analysis method used is qualitative analysis.

3. Results and Discussion

3.1. Implementation of the Termination of Prosecution of the Crime of Persecution in the Legal Territory of the Pemalang District Attorney.

Law enforcement in the criminal justice system aims to tackle every crime. State actions must be based on applicable laws and regulations. Law should be used as a stepping stone to regulate and resolve various problems in running the wheels of life in society, nation and state.

As mentioned, the involvement of victims and the community in dealing with conflicts and resolving problems in criminal cases will raise public awareness in general to prioritize resolving cases through deliberation and will foster public legal awareness.

The Prosecutor's Office of the Republic of Indonesia as a government institution that exercises state power in the field of prosecution must be able to realize legal certainty, legal order, justice and truth based on law and respect religious norms, decency and morality, and must explore living human values, law and justice. in society.

Attorney General Regulation 15 of 2020 concerning Termination of Prosecution based on Restorative Justice is a legal product of the Attorney General of the Republic

of Indonesia which is awaited by the public based on the mandate from the Attorney General of the Republic of Indonesia so that every prosecutor prosecutes someone with a conscience, because conscience is not in the law but exists. In the hearts of prosecutors, even though this mechanism is not regulated in the Criminal Procedure Code, therefore with the Attorney General's Regulation Number 15 of 2020, prosecutors in Indonesia no longer need to hesitate to close small cases because it is the authority of the prosecution which is the domain of the public prosecutor.

The following authors present data on cases of criminal acts of persecution in the jurisdiction of the Pematang District Attorney in 2020 to June 2022:

Table 1
Data on the Crime of Persecution
in the jurisdiction of the Pematang District Attorney

No	Year	Amount	Persecution Case	
			Proceed to the trial	Restorative Justice
1	2021	12	9	3
2	2022	3	3	0
Total		15	12	3

Based on Table 1 above, it can be seen that from January 2021 to December 2022, there were 12 cases of criminal acts of persecution, 9 cases that continued to the trial stage and 3 cases that succeeded in Restorative Justice. Meanwhile, from January 2022 to June 2022, there were 3 cases of criminal acts of persecution and all of them proceeded to the trial stage. Until now, the author has conducted research that the Pematang District Attorney has only succeeded in implementing Restorative Justice 3 times.

3.2. Barriers to the Implementation of Termination of Prosecution of the Crime of Persecution

In the concept of Restorative Justice, the handling of crimes or criminal acts that occur is not only the responsibility of the state but also the responsibility of the community. Therefore, the concept of restorative justice is built on the understanding that crimes or criminal acts that have caused harm to both the victim and the wider community must be restored, both the losses suffered by the victims and the losses suffered by the community. In its implementation, Restorative Justice certainly encounters many obstacles and based on research there are several inhibiting factors that occur in the application of Restorative Justice to cases of criminal acts of persecution, including:

- Human resource factor
Prosecutors in implementing Restorative Justice mean giving decisions that have a big impact on the litigants and the prosecutor's institution itself. Thus, intellectual

skills and abilities must be prioritized to analyze how the level of action of a criminal act of persecution is carried out.

- The conflict factor between the perpetrator and the victim
Obstacles in meeting the interests of the parties are very likely to occur, considering that the benchmarks used are very subjective in nature, namely depending on the needs of each party, so that in practice in the field there are several possibilities for conflicts of interest to arise.
- Community Culture Factors
The community is also one of the important things that hinders Restorative Justice carried out by the prosecutor. This is influenced by the circumstances of individual communities or community groups living in Pemalang Regency which have certain characteristics. So that prosecutors must be more careful in implementing Restorative Justice, because in society, prosecutors have a fairly complicated task.

3.3. Solutions to Obstacles in the Implementation of Terminating the Prosecution of the Crime of Persecution

- Basically, the purpose of the restorative principle itself is to create conditions as before (recovery) of course various obstacles will arise, which is a clash between theory and practice that is difficult to carry out, the need for more legal understanding from law enforcers, especially in this case the prosecutor's office and approach to the community that to achieve justice there must be an alternative solution, the community also plays a role in legal reform in Indonesia.
- In practice, there are still some obstacles in the implementation of the termination of prosecution of cases of criminal acts of persecution. However, in dealing with these obstacles, the Pemalang District Attorney has several strategies or efforts so that Restorative Justice can be carried out properly in the future. Efforts made by the Pemalang District Prosecutor's Office are by socializing the regulations by the prosecutor's office to the public so that the public understands the rules and restorative approaches, as well as the application of the Attorney General's Regulation No. 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. many processes.

4. Conclusions and Suggestions

Based on the results of research and discussion regarding the Implementation of Case Termination in the Crime of Persecution in a Restorative Justice Perspective, the following conclusions can be drawn:

- a. The application of the principle of Restorative Justice in the Pemalang District Prosecutor's Office based on the Prosecutor's Regulation Number 15 of 2020 has been implemented, where in this application the Prosecutor's Office prioritizes restorative efforts in cases of persecution. The mechanism for stopping prosecution by way of reconciliation between the victim and the perpetrator can be seen in the provisions of article 9 to article 14 of the Prosecutor's Regulation Number 15 of 2020 concerning Termination of Prosecution through Peace between the victim and

- the perpetrator by involving the victim's family, the perpetrator's family, and other related parties such as community leaders. , which starts from an agreement between the two parties, without any pressure, coercion, and intimidation,
- b. The obstacles faced in the application of the Attorney General's Regulation Number 15 of 2020 Against criminal acts of persecution in the jurisdiction of the Pemalang District Attorney's Office in the prosecutor's regulation itself there is no information on what parameters the public prosecutor uses in deciding a criminal case, so what is the size of the case whether or not to be terminated on the basis of restorative justice remains uncertain. As well as other obstacles, namely there are also families who do not want to forgive the perpetrators' mistakes, then the case cannot be applied to the principle of Restorative Justice. Another obstacle is also from the prosecutor's own human resources regarding the understanding of the implementation of the Restorative Justice approach, the conflict of interest between perpetrators and victims of criminal acts and people who have their own culture and legal culture.

It is necessary to conduct socialization of regulations by the prosecutor's office to the public so that the public understands the rules and restorative approaches, as well as the application of the Attorney General's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice must be more efficient and not go through too many processes.

5. References

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