

Implementation of the Policy of Termination of Prosecution of Criminal Acts of Theft Through Restorative Justice in the Regulations of the Attorney General of the Republic of Indonesia

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Abstract. *Settlement of criminal cases by prioritizing restorative justice that emphasizes restoration to the original state and balance of protection and interests of victims and perpetrators of criminal acts that are not oriented towards revenge is a community need and a mechanism that must be built in the implementation of prosecution authority and renewal of the criminal justice system. The focus of the discussion in this thesis is how to implement the policy of terminating the prosecution of theft crimes through Restorative Justice in the regulations of the Attorney General's Office of the Republic of Indonesia, obstacles and solutions and restorative justice policies in the future. The approach method in this research uses empirical juridical in this research, analyzing the problem is done by combining secondary data with primary data obtained in the field. The results of the study concluded that the policy of terminating the prosecution of minor crimes by the Republic of Indonesia Attorney General's Office based on Restorative Justice has now begun to be implemented. Termination of prosecution based on restorative justice has fulfilled the public's sense of justice by balancing legal certainty and conscience. Based on Article 5 Paragraph 1 of the Republic of Indonesia Attorney General's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. In its implementation, there are several obstacles regarding the nominal value determined and the active role of law enforcement officers in implementing law enforcement based on restorative justice. Termination of prosecution of theft crimes using Restorative Justice in the Republic of Indonesia Attorney General's regulations in the future has been conceptualized in the Draft Criminal Code*

Keywords: *Crime; Justice; Restorative; Termination.*

1. Introduction

In the development of criminal law, the term restorative justice is known. This development is because the retributive system that has been implemented so far has not been able to fully fulfill the sense of justice for the community. The resolution of criminal cases by prioritizing restorative justice which emphasizes the restoration of the original state and the balance of protection and interests of victims and perpetrators of criminal acts that are not oriented towards revenge is a community need and a mechanism that must be built in the implementation of the authority of prosecution and the renewal of the criminal justice system.¹

The concept of restorative justice is implemented in the Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. Restorative justice is an approach to resolving criminal acts that is currently being widely voiced in various countries. Through the restorative justice approach, victims and perpetrators of criminal acts are expected to achieve peace by prioritizing a win-win solution, and emphasizing that the victim's losses are replaced and the victim forgives the perpetrator of the crime.

In Chapter 5 verses (1) Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice states that:

“A criminal case can be closed by law and its prosecution can be stopped based on Restorative Justice if the following conditions are met: first, the suspect has committed a crime for the first time, second, the crime is only punishable by a fine or is punishable by imprisonment of no more than 5 (five) years, and third, the crime was committed with the value of the evidence or the value of the loss caused by the crime not exceeding Rp2,500,000.00 (two million five hundred thousand rupiah).”

Termination of prosecution based on restorative justice in the regulation is carried out by considering "the existence of peace between the Victim and the Suspect" as contained in the provisions of Article 4 paragraph (2) letter g of the Republic of Indonesia Prosecutor's Office Regulation Number 15 of 2020. This aims to allow the Public Prosecutor to consider restorative justice as an alternative to resolving criminal cases. So that the purpose of restorative justice in an effort to restore the condition of society to its original state and ensure that the perpetrator can live normally again in society without going through the criminalization process against the perpetrator can be realized.

In its development, criminal law is often the first choice, if an action is considered a criminal act in solving a problem. This act shows that society has gradually

¹Reynaldi Sinyo Wakkary. "Implementation of the Restorative Justice Principle in the Prosecution System Based on Prosecutor's Regulation Number 15 of 2020". Lex Crimen Journal. Vol X (9) 2021. p.116.

abandoned the culture of law and deliberation. Minor criminal cases in Indonesia often end in imprisonment. Court decisions that impose prison sentences have resulted in an increase in the number of prisoners in Correctional Institutions.

This regulation is based on the consideration of resolving criminal cases that prioritize restorative justice that emphasizes the restoration of the original state and the balance of protection and interests of victims and perpetrators of criminal acts that are not oriented towards revenge is a legal need of society and a mechanism that must be built in the implementation of prosecutorial authority and the renewal of the criminal justice system.

The Salatiga District Attorney's Office has successfully implemented restorative justice against the crime of theft on behalf of the defendant KHARIS NUGROHO PUTRANTO Bin SUGIYANTO. The defendant committed theft by taking 3 (three) wallets containing approximately IDR 655,000 (six hundred and fifty five thousand rupiah) belonging to TRI HARIYANTI which were lying in the victim's grocery store located at Jl. Arjuna No. 43 Kp. Karangalit Rt.03 Rw. 05 Kel. Dukuh Kec. Sidomukti City of Salatiga.

2. Research Methods

The method used in this study is the empirical juridical method. The research in this writing is a qualitative research in which the data in the study are not in the form of numbers, but verbal words. The sources and types of data in this study are secondary data obtained from literature studies. The data is analyzed qualitatively.

3. Results and Discussion

3.1. Implementation of the Policy of Termination of Prosecution of Criminal Acts of Theft Through Restorative Justice in the Regulations of the Attorney General of the Republic of Indonesia

Along with the failure of the criminal justice system based on the dynamics of change and development of criminal law, a paradigm of punishment called restorative justice has emerged. In restorative justice, the perpetrator is encouraged to repair the harm he has caused to the victim, his family and also the community. The main program is "a meeting place for people" to find solutions to repair relationships and damage caused by crime.

The restorative justice program at the prosecution level can be implemented based on Article 35 letter c of Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, which contains the authority to give prosecutors the authority to set aside cases for the sake of public interest. The sentence, "setting aside cases for the sake of public interest", can be interpreted as a change and shift from retributive justice procedures to restorative justice, from being oriented towards sentencing to being oriented towards improving and protecting society, namely the interests of victims, the interests of the wider community and the perpetrators.

In implementing a correctional system in accordance with retributive justice, it is expected that perpetrators of criminal acts will receive guidance so that they realize and regret their mistakes, are responsible for their actions, improve themselves, and do not commit crimes again when they return to society. However, in reality, the objectives of this criminal system cannot be immediately implemented due to a number of problems in the Correctional Institution, one of which is overcapacity. Overcapacity in prisons itself occurs due to the high crime rate which stems from the destruction of the current criminal system which is considered to only prioritize the punishment and punishment of perpetrators of criminal acts and has not considered the interests of victims and/or the community who are harmed. One step that can be taken to resolve this case is to implement a restorative justice system.

Restorative justice can be formulated as a thought that responds to the development of the criminal justice system by emphasizing the need to involve the community and victims who feel marginalized by the mechanisms that operate in the current criminal justice system.²

Regarding the implementation procedures for the policy of termination of prosecution by the Attorney General's Office of the Republic of Indonesia, it has been regulated in Article 7, Article 8 and Article 9 of the Regulation of the Attorney General's Office of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. There are two components in the procedure for termination of prosecution on the basis of peace, namely the peace efforts stated in Article 7 and Article 8 and the peace process that has been regulated in Article 9. This peace effort is an effort offered by the public prosecutor when entering the prosecution stage, without any pressure, coercion and intimidation. This is described in:

Article 7

- (1) The Public Prosecutor offers peace efforts to the Victim and the Suspect;
- (2) Peace efforts as referred to in paragraph (1) are carried out without pressure, coercion and intimidation;
- (3) The peace efforts as referred to in paragraph (2) are carried out at the prosecution stage, namely when responsibility for the suspect and evidence is handed over (stage two).

Article 8

- (1) For the purposes of peace efforts, the Public Prosecutor shall summon the Victim legally and properly by stating the reasons for the summons;

²Barda Nawawi Arief, *Penal Mediation: Settlement of Cases Outside the Court*, Pustaka Magister, Semarang, 2012, p. 4-5.

- (2) If deemed necessary, peace efforts can involve the victim/suspect's family, community leaders or representatives, and other related parties;
- (3) The Public Prosecutor informs the Victim and Suspect of the intent and purpose as well as the rights and obligations of the Victim and the Suspect in the peace efforts, including the right to reject the peace efforts;
- (4) If the peace efforts are accepted by the Victim and the Suspect, the peace process will continue;
- (5) After the peace efforts are accepted by the Victim and the Suspect, the Public Prosecutor makes a report on the peace efforts being accepted to the Head of the District Attorney's Office or the Branch of the Head of the District Attorney's Office to be forwarded to the Head of the High Prosecutor's Office;
- (6) In certain cases that receive special attention from leaders and the public, the reports as referred to in paragraph (5) are also submitted to the Attorney General in a hierarchical manner;
- (7) In the event that the peace efforts are rejected by the Victim and/or Suspect, the Public Prosecutor:
 - a. record the failure to achieve peace efforts in the minutes;
 - b. make a note of opinion that the case is referred to the court, stating the reasons; and
 - c. submit case files to the court.

This peacemaking stage begins with the summons of the victim by the public prosecutor followed by notification of the reason for the summons, the intent and purpose of the peacemaking, the rights and obligations of the victim and suspect in the peacemaking, including the right to reject the peacemaking. In addition to the victim, this peacemaking can also involve the victim/suspect's family, community leaders/representatives, and other related parties if necessary.

In the event that the peace effort offer is accepted by the victim and the suspect, this effort is then continued to the next step, namely the peace process. However, if the peace effort is rejected by the victim and/or suspect, the public prosecutor will refer the case to the court.

Discussing the peace process, the Public Prosecutor in the peace process acts as a facilitator, who has no interest or connection with the case, victim or suspect either personally or professionally. The peace process is carried out within a maximum of 14 (fourteen) days from the handover of responsibility that must be fulfilled by the suspect, this process is carried out at the Prosecutor's Office. After that, if the peace process has been achieved, the victim and suspect make a written peace agreement before the public prosecutor, the contents of which are:

1. Agree to make peace with the fulfillment of certain obligations
2. Agreeing to make peace without fulfilling certain obligations.

If a peace agreement has been reached, the public prosecutor will continue to report to the Branch Head/Head of the District Attorney's Office by attaching the minutes of the peace agreement, in addition to the report submitted, the public prosecutor will also request approval to terminate the prosecution based on restorative justice.

Based on the results of the author's interview with the sources, namely Mrs. Asri Dwi Utami, SH and Mrs. Nana Rosita Sari, SH as Public Prosecutors who are in the process of resolving the case through Restorative Justice as facilitators in the peace process between the victim Tri Hariyani Binti Suwarno and the suspect Kharis Nugroho Putranto Bin Sugiyanto in a theft case that violates Article 362 of the Criminal Code at the Salatiga District Attorney's Office. That in the implementation of the peace process based on restorative justice, it was declared successful with the following process:

- The facilitator opens the peace process and declares it closed to the public. After explaining the intent and purpose and the rules for implementing the peace process, the facilitator then explains the time, place and a brief description of the crime that is suspected of having been committed by the suspect as follows:

On Monday, December 20, 2021 at around 14.00 WIB at a grocery store located at Jl. Arjuna No. 43 RT.03 RW.05 Dukuh Village, Sidomukti District, Salatiga City, suspect Kharis Nugroho Putranto, son of Sugiyanto, committed the crime of theft under Article 362 of the Criminal Code, which was carried out by the defendant riding a Suzuki Smash motorcycle with Police Number: H-3047-HK coming to the grocery store which is one with the house belonging to witness Tri Hariyanti located at Jl. Arjuna No. 43 Kp. Karangalit Rt.03 Rw. 05 Dukuh Village, Sidomukti District. Sidomukti Salatiga City intended to offer the merchandise that the suspect brought, namely toothbrushes and batteries to witness Tri Hariyanti, when he arrived at the grocery store owned by witness Tri Hariyanti, at that time the store was quiet, then the defendant Kharis Nugroho Putranto greeted with the words "Nuwun-nuwun" twice but at that time there was no answer. Then, when the suspect found out that the grocery store was quiet, the defendant saw 3 (three) wallets lying on the table in the grocery store, then without the permission of witness Tri Hariyanti, the defendant immediately took 3 (three) wallets containing money worth approximately IDR 655,000, - (six hundred and fifty five thousand rupiah), then after successfully taking the wallet containing the money, the defendant tucked it behind the clothes worn by the defendant, then the defendant left the grocery store owned by witness Tri Hariyanti.

- Based on this explanation, the facilitator provides an opportunity for the Suspect, Victim, and Community Leaders to provide responses and

suggestions regarding the form and procedures for reconciliation as follows:

The suspect apologized and compensated the victim for his actions. After that, the suspect promised not to repeat his actions again.

The victim accepted the apology from the suspect through the peace process offered by the Public Prosecutor at the Salatiga District Attorney's Office and agreed to complete the peace process.

Community leaders who were present witnessed and approved the peace process between the suspect and the victim facilitated by the Public Prosecutor at the Salatiga District Attorney's Office.

- After the peace process has run smoothly and can be accepted by all parties involved in it, the Public Prosecutor then makes a report on the peace process that has been accepted, which contains information about the progress of the peace process that has been achieved so that a Letter of Determination to Terminate Prosecution can be issued to the Head of the High Prosecutor's Office which is then forwarded to the Deputy Attorney General for General Crimes.

- Furthermore, if the request to stop the prosecution by the Public Prosecutor has been approved by the leadership, then a Letter of Determination to Stop Prosecution can be issued by the Head of the Salatiga District Attorney's Office which stipulates that the prosecution of the case can be stopped, if there are confiscated objects/evidence that can be returned to the rightful party, and the provisions regarding the letter of determination can be revoked if in the future there are new reasons obtained by the investigator/public prosecutor or there is a pretrial decision/court decision that has received a final decision from the High Court stating that the termination of the prosecution is invalid.

From the results of the author's interview with the informant, the prosecution was then terminated for the crime. Furthermore, the parties made a peace agreement after the fulfillment of obligations was carried out or the peace process was successfully implemented without conditions. The peace efforts carried out with restorative justice have also been in accordance with the provisions in Chapter IV concerning Peace Procedures as stated in the Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice in Articles 7 and 9.

Termination of prosecution based on restorative justice is carried out by the Public Prosecutor at the Salatiga District Attorney's Office by paying attention to and considering the following matters:

- a. The interests of victims and other protected legal interests;
- b. Avoidance of negative stigma;
- c. Avoidance of retaliation;
- d. Community response and harmony;

- e. Propriety, morality and public order;
- f. Subjects, objects, categories and threats of criminal acts;
- g. The background to the commission of the crime;
- h. Level of depravity;
- i. Losses or consequences arising from criminal acts;
- j. *Cost and benefit* case handling;
- k. Restoration back to its original state;
- l. There is peace between the victim and the suspect.

So far, the public generally knows that Restorative Justice is only applied to minor crimes. Understanding the elements of minor crimes is further explained in the Criminal Procedure Code (KUHP) Number 8 of 1981 as a formal criminal law provision of the Criminal Code (KUHP), although this explanation is not a general definition of minor crimes according to the Criminal Code (KUHP). Understanding minor crimes according to the Criminal Procedure Code (KUHP) is explained in Article 205 Paragraph (1) which reads:

"Those examined according to the examination procedure for minor crimes are cases that are threatened with imprisonment or detention for a maximum of three months and/or a fine of up to seven thousand five hundred rupiah and minor insults except as specified in Paragraph 2 of this Section."

Based on the explanation in Article 205 paragraph (1) of the Criminal Procedure Code, the understanding of a minor criminal act is a criminal case that carries a maximum prison sentence of three months and/or a maximum fine of seven thousand five hundred rupiah in the Criminal Code (KUHP). If analyzed further in each article explaining the maximum prison sentence of three months in the Criminal Code (KUHP), there are at least nine articles that are classified as Minor Criminal Acts, including:

- a. Article 302 Paragraph (1) :Minor Animal Abuse;
- b. Article 352 Paragraph (1) :Minor Assault;
- c. Article 364 :Petty Theft;
- d. Article 373 :Minor Darkening;
- e. Article 379 :Minor Fraud;
- f. Article 384 :Fraud In Sales;
- g. Article 407 Paragraph (1) :Destruction of Goods;
- h. Article 482 :Light Handling; and
- i. Article 315 :Mild Insult.

In substance, the understanding of minor criminal acts according to the Regulation of the Supreme Court of the Republic of Indonesia Number 02 of 2012 is almost the same as the main content in Article 205-210 of the Criminal Procedure Code where the category of Minor Criminal Acts (*tipiring*) is based on the threat of imprisonment or confinement of a maximum of three months through a case examination carried out with a fast procedure by immediately appointing a single judge to examine, try and decide the case, which then the

fine according to the Criminal Code is multiplied to 10,000 (ten thousand times) to Rp 2,500,000.00 (two million five hundred thousand rupiah) in this regulation, so that it is automatically considered a minor criminal act without any more appeal or cassation institutions and prosecution institutions by the Public Prosecutor (JPU).

The implementation of restorative justice in the termination of prosecution at the prosecutor's office is in accordance with the direction of progressive legal theory, where this theory states that law is part of the process of searching for the truth that never stops. Satjipto Rahardjo as the initiator of progressive law said that rule breaking is very important in the law enforcement system. Law enforcers must dare to free themselves from the use of standard patterns. There are three ways to do rule breaking, first by using spiritual intelligence to rise from the decline of the law and not allowing oneself to be constrained by old ways. Second, searching for deeper meaning should be a new measure in implementing the law and a state of law. Third, the law should not be implemented according to logical principles alone but with feelings, concern and involvement (compassion) for weak groups.³This is in line with the message from Mr. ST Burhanuddin as Attorney General who stated that it is important to build a conscience in enforcing the law that is just and beneficial to the community. The Attorney General emphasized that in every implementation of the duties and mandates that the Attorney carries out, it must be done by developing a cognitive and structured mindset that is based on conscience.

Satjipto Rahardjo formulated the concept of justice on how to create justice based on the values of balance of equal rights and obligations. However, the appropriateness of the mechanism used by the law must also be considered, by creating and issuing legal regulations and then applying sanctions to members of society based on the regulations that have been made, what actions are allowed and not allowed, namely substantive. However, regulations must also be issued that regulate the procedures and rules for implementing these substantive regulations, namely procedural, for example civil law (substantive) paired with civil procedural law (procedural).⁴

With the issuance of the Republic of Indonesia Attorney General's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, the Republic of Indonesia Attorney General's Office has currently carried out the mandate of progressive law where law enforcers can provide protection not only for victims but also for suspects on the basis of deliberation and mediation for both parties.

3.2. Obstacles and Solutions in the Implementation of the Policy of Termination of Prosecution of Criminal Acts of Theft Through Restorative Justice

³Suteki, *The Future of Progressive Law*, Thafa Media: Yogyakarta, 2015, p. 38

⁴Fence M. Wantu, *Opcit*, p. 484.

The issue of law enforcement is a problem that is never stopped being discussed. Based on the practice of criminal law enforcement, it often uses Restorative Justice or Restorative Justice which means a restoration of relations and redemption of mistakes that the perpetrator of the crime wants to do to the victim of the crime with peace efforts outside the court for the purpose and objective that legal problems arising from the occurrence of the crime can be resolved properly by reaching an agreement and consensus between the parties concerned.

In law enforcement that implements the policy of terminating prosecution through Restorative Justice, there are several obstacles in its implementation:

1. Legal Substance Factors

In law enforcement efforts that implement the policy of terminating prosecution through Restorative Justice, it is very much determined by the legal substance factor. The legal substance in question is the rules, norms and all products of statutory regulations. The factor that is very determining in the application of Restorative Justice to the specific crime of theft. This is because the provisions governing Restorative Justice as stated in the Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice Criminal Cases can be closed by law and their prosecution can be terminated based on Restorative Justice if the requirements are met, one of which is that the crime was committed with the value of the evidence or the value of the loss caused by the crime not exceeding IDR 2,500,000.00 (two million five hundred thousand rupiah) so that when the loss suffered exceeds that, the application of case handling by implementing the Restorative Justice policy must be set aside.

2. Law Enforcement Factors

Factors in this case are related to law enforcement officers, lack of support and cooperation between institutions is an obstacle that still occurs in upholding justice, including in handling criminal acts of theft. Law enforcers still prioritize the concept of punishment as retaliation and ignore the Restorative Justice approach. So that no approach is taken by law enforcement officers to the parties concerned to resolve the problem outside the court.

Based on these obstacles, there are solutions that can be done by the Government of the Republic of Indonesia by making regulations in handling cases, especially for theft crimes, prioritizing a restorative justice approach so that in its implementation it is not only based on the value of the loss but rather prioritizes the settlement process with mediation between the victim, the perpetrator and the related parties so that the punishment is not aimed at revenge but rather justice is achieved because both parties choose to reconcile. In addition, law enforcement officers in carrying out their duties must prioritize the Restorative Justice approach as an alternative in handling cases so that the imposition of imprisonment can be minimized and it is our duty to provide

socialization or counseling to the community regarding the importance of restorative justice in the implementation of the criminal justice system.

3.3. Policy on Termination of Prosecution of Criminal Acts of Theft Through Restorative Justice in the Regulations of the Attorney General of the Republic of Indonesia in the Future

The substance of the Draft Criminal Code has a restorative justice concept which is based on the following criteria:

First, the beginning of the arrangement regarding local wisdom or the application of living law in society (living law). regarding the extent to which the law is recognized, the implications for its implementation and whether its implementation is in conflict with the concept of human rights that avoid cruel and inhumane treatment. Therefore, it is important to limit the criteria for losses and the requirements not to conflict with the values of Pancasila, the constitution, human rights and general principles in a democratic state.

Second, the paradigmatic change regarding the concept of punishment has begun to shift from the concept of retributive/absolute punishment which tries as hard as possible to provide a deterrent effect with harsh punishments to the concept of verbeterings/rehabilitation with a focus on improving the perpetrator so that they can integrate with society.

Third, community service can be applied to defendants who commit crimes that are subject to imprisonment of less than 5 (five) years and the judge imposes a maximum imprisonment of 6 (six) months or a certain amount of fine. Fourth, strengthening the judicial pardon mechanism which is conceptually directed at giving authority to judges to grant forgiveness or pardon to people who commit crimes.

Apart from being part of the development of restorative justice and correction of the application of the principle of legality, this provision will expand the concept of reasons for forgiveness for perpetrators of criminal acts as regulated in Article 44 paragraph (1) and (2) of the Criminal Code for acts that cannot be accounted for because they carry out an act that cannot be accounted for because their mind is not perfect or because their mind has changed.

Based on the description of the concept of restorative justice in the RKUHP, restorative justice has actually normatively become a mechanism for resolving legal cases in the context of the criminal justice system with the main stakeholders in law enforcement officers. The success of implementing the concept of restorative justice depends on the accuracy in determining personalism, formulating reparations, the reintegration process and full participation of the parties. The concept of restorative justice is included in the following articles in the 2022 Criminal Code Bill:

Article 53

In trying a criminal case, the judge is obliged to uphold the law and justice. If there is a conflict between legal certainty and justice, the judge is obliged to prioritize justice.

Article 54 paragraph (2)

The lightness of the act, the personal circumstances of the perpetrator, or the circumstances at the time the crime was committed and what happened afterwards can be used as a basis for consideration not to impose a criminal penalty or not to take action by considering aspects of justice and humanity.

Article 55

Any person who commits a crime is not exempt from criminal responsibility based on the grounds of the exclusion of criminal penalties if the person has intentionally caused a situation that can be a reason for the exclusion of said criminal penalties.

Article 70 paragraph (1)

While still considering the provisions as referred to in Articles 51 to 54, imprisonment should as far as possible not be imposed if the following circumstances are found:

- a. the defendant is a child;
- b. the defendant is over 75 (seventy five) years old;
- c. the defendant committed a crime for the first time;
- d. The victim's losses and suffering are not too great;
- e. the defendant has paid compensation to the victim;
- f. the defendant did not realize that the crime he committed would result in major losses;
- g. Criminal acts occur due to very strong incitement from other people;
- h. The victim of the crime encouraged or motivated the crime to occur;
- i. The crime is the result of a situation that is unlikely to be repeated;
- j. the defendant's personality and behavior convince him that he will not commit another crime;
- k. imprisonment will cause great suffering for the accused or his family;
- l. counseling outside of correctional institutions is expected to be successful for the defendant;
- m. Imposing a lighter sentence will not reduce the serious nature of the crime committed by the defendant;
- n. The crime occurred within the family; and/or

- o. Criminal acts occur due to negligence.

Article 132 paragraph (1)

The authority to prosecute is declared to have lapsed if:

- a. there is a court decision that has obtained permanent legal force against every person for the same case;
- b. the suspect or defendant dies;
- c. expired;
- d. the maximum fine must be paid voluntarily for criminal acts which are only subject to a maximum fine of category III;
- e. the maximum category IV fine is paid voluntarily for criminal acts that are punishable by a maximum imprisonment of 1 (one) year;
- f. withdrawal of the complaint for a Criminal Offense complaint; or
- g. there has been a settlement outside the judicial process as regulated in the Law.

The concept of restorative justice in the RKUHP is in accordance with the integrative legal theory where the theory has an important and determining role in defining and maintaining the values and ideals that can maintain the continuity of our shared outlook on life, namely Pancasila. According to integrative law, legal engineering, society and law enforcement that are carried out must be based on a system of norms, a system of behavior and a system of values that are none other than sourced from Pancasila as the ideology of the Indonesian nation.⁵

Restorative justice typical of the prosecutor's office is justice that focuses on improving the situation that arises due to a criminal act that focuses on determining justice for the victim in order to restore the situation to its original state. Restorative justice typical of the prosecutor's office also takes into account the humanitarian aspect of the perpetrator who caused a particular crime. However, it should also be emphasized that prosecutors in implementing restorative justice are subject to public pressure, but it means that every action taken by the prosecutor must be based on conscience and proportional. This is because just law enforcement is law enforcement that can provide benefits and present justice that can be felt by the community.

Based on the results of interviews with the Prosecutor at the Salatiga District Attorney's Office as a form of means for the community to make peace efforts against social problems, the Salatiga District Attorney's Office in collaboration with the Salatiga City Government established a restorative justice house. Based on the results of the author's interview, the Salatiga City District Attorney's Office

⁵Romli Atmasasmita, "Understanding Integrative Legal Theory", Jurnal Legalita, Vol. III No. 2, December 2012, p. 1

has a restorative justice house located in places or areas where there is the potential for frequent cases such as assault, theft, brawls, and fights. The existence of this Restorative Justice house is expected to create peace and tranquility in the community.

4. Conclusion

Based on the discussion that the author has presented above, the author can conclude that the policy of terminating the prosecution of minor crimes by the Attorney General's Office of the Republic of Indonesia based on Restorative Justice has now begun to be implemented. Termination of prosecution based on restorative justice has fulfilled the public's sense of justice by balancing legal certainty and conscience. Based on Article 5 Paragraph 1 of the Regulation of the Attorney General's Office of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, criminal cases can be closed by law and their prosecution can be terminated based on restorative justice. One of the obstacles to the implementation of Restorative Justice is that the crime is committed with the value of the evidence or the value of the loss caused by the crime of no more than IDR 2,500,000.00 (two million five hundred thousand rupiah) so that when the loss suffered exceeds that, the implementation of case handling by implementing the Restorative Justice policy must be set aside and law enforcers still prioritize the concept of punishment as retaliation and ignore the Restorative Justice approach. The termination of the prosecution of the crime of theft through Restorative Justice in the regulations of the Republic of Indonesia's prosecutor's office in the future has been conceptualized in the Draft Criminal Code which has a restorative justice concept.

The suggestion from this study is that there needs to be a change in the article regarding the classification of criminal acts in the Republic of Indonesia Attorney General's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, because there are cases of criminal acts outside the provisions of criminal acts regulated in the Republic of Indonesia Attorney General's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice which can be resolved with Restorative Justice.

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