

## Law Enforcement Against Criminal Acts of Fraud Through a Restorative Justice Approach by the Semarang City District Attorney's Office

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**Abstract.** *This study aims to determine and examine the law enforcement against fraud through a restorative justice approach by the Semarang City District Attorney's Office. This study uses a socio-logical legal approach method that is descriptive in nature. The data used are primary and secondary data obtained through interviews, observations, documentation and literature studies, which are then analyzed qualitatively. Based on the study, it was concluded that: (1) law enforcement against fraud through a restorative justice approach by the Semarang City District Attorney's Office depends on each case submitted, because not all can be carried out with a restorative justice approach, because it must still be guided by the regulations and requirements contained in Article 4, Article 5 and Article 6 of Perja Number 15 of 2020, including there has been peace between the perpetrator and the victim, the perpetrator has not previously been convicted in a case that has permanent legal force, and besides that, it continues to see the developments that are alive and exist in society; (2) Obstacles in law enforcement against criminal acts of fraud through a restorative justice approach by the Semarang City District Attorney's Office, namely: (a) legal substance: Article 5 paragraph (2) of Perja Number 15 of 2020 is not accompanied by a benchmark used by the Public Prosecutor to decide a criminal case on "criteria or circumstances that are casuistic", (b) legal structure: there are still Public Prosecutors who are passive, and (c) legal culture: the public does not fully understand about legal restoration, so that efforts to overcome these obstacles are: (a) legal substance: it is necessary to describe the benchmark for casuistic cases, (b) legal structure: the Prosecutor's Office improves the quality of human resources with training to improve communication skills and knowledge for Prosecutors; and (c) socialization is needed to increase public understanding of restorative justice.*

**Keywords:** Justice; Restorative; Prosecutor's.

## 1. Introduction

Crimes that occur in this society are increasingly diverse, even now crimes have taken advantage of the development of science and technology. However, the types of crimes that often occur are crimes against objects or have economic motives. These economic-motivated crimes are not only because of urgent needs that must be met, but also because of greed (corruption) and even because of a hedonistic lifestyle, so that people compete to enrich themselves in negative ways and harm others such as committing fraud.

The concept of fraud (*bedrog*) contained in Article 378 of the Criminal Code is a criminal act or delict, if violated, it will result in imprisonment.<sup>1</sup> Article 378 of the Criminal Code states that:

Whoever, with the intention of benefiting himself or another person, violates the rights, either by using a false name or false circumstances, either by means of artifice and deceit, or by composing false speech, creates a debt or writes off a receivable, shall be punished by imprisonment for fraud, with the maximum prison sentence is four years.

Even today, fraud is carried out using digital means. Digital fraud as stated by Cross et.al. is a form of fraud that occurs when someone uses the internet to provide funds or personal information in response to fraud, notification, offer or request, which then causes the victim to suffer financial or non-financial losses.<sup>2</sup>

The crime of fraud/*bedrog* is currently increasingly rampant and often occurs in society, with various modes of operation, objects or tools used and goals that the perpetrators want to achieve, so that it is often heard and seen through various news reports, both print and electronic mass media, there have been many victims and losses caused by this crime,<sup>3</sup> One of them is a case of fraud handled by the Semarang City District Attorney's Office, on behalf of the suspect ARW, with the motive of having difficulty finding medical expenses for his mother who suffered from diabetes and cataracts, so the suspect was charged with Article 378 of the Criminal Code or Article 372 of the Criminal Code.

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<sup>1</sup>Yahman, (2014). Characteristics of Default and Criminal Acts of Fraud; Arising from Contractual Relationships, First Edition, First Printing, Jakarta: Kencana Prenada Media Group, p. 108.

<sup>2</sup>Kurnia, Novi. et al. (2022). Digital Fraud in Indonesia; Mode, Medium, and Recommendations. First Edition. Yogyakarta: Master of Communication Studies Program, Faculty of Social and Political Sciences, Gadjah Mada University, p. 17.

<sup>3</sup>Wirasila, AA Ngurah., Darmadi, AA Ngurah Yusa and Purwani, Sagung Putri ME (2017). Textbook of Certain Criminal Acts in the Criminal Code; Crimes and Violations Against Property. Denpasar: Faculty of Law, Udayana University, p. 56.

For crimes or criminal acts that occur in society, including fraud, the state, in this case represented by the government, makes every effort to anticipate them. Anticipation of these crimes includes effectively functioning legal instruments (criminal) through law enforcement. Criminal law here has a position as a tool to become a solution to problems in the public sphere.<sup>4</sup>

Law enforcement is one of the parameters for the success of a state based on law,<sup>5</sup> or in other words that the main implementation of the rule of law is the enforcement of law through the courts, which in this case is criminal justice. However, law enforcement in Indonesia can be said to be "communis opinio doctorum", which means that the current law enforcement is considered to have failed in achieving the objectives required by law,<sup>6</sup> because the justice that society longs for has not been achieved, society even wants certain cases, in this case small cases, not to need to be prosecuted and brought to trial.

In cases of fraud, victims who are deceived and have their property stolen will certainly experience double losses if the legal process goes through the courts because it will cost quite a lot of money. The victim's losses cannot be returned, because the perpetrator of the crime will receive sanctions in the form of imprisonment without replacing the victim's losses. Seeing this phenomenon, in recent developments a new concept has emerged in resolving criminal cases outside the courts or non-litigation, namely the concept of restorative justice.

This concept is relevant for the transformation of all parts of the criminal justice system data to the appropriate process, meaning that at every level of justice or institution of law enforcement officers included in the criminal justice system, they can be transferred to the restorative justice process.<sup>7</sup> Restorative justice as a concept of punishment aims to find a way to enforce a fairer and more balanced punishment system, for example between the interests of the perpetrator and the victim.<sup>8</sup>

The purpose of this study is to determine and examine law enforcement against criminal acts of fraud through a restorative justice approach by the Semarang City District Attorney's Office.

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<sup>4</sup>Pidada, Ida Bagus Anggapurana. et al., (2022). Criminal Acts in the Criminal Code. First Edition. Bandung: Widina Bhakti Persada Bandung, p. 42.

<sup>5</sup>Sri Endah Wahyuningsih and Rismato. "Criminal Law Enforcement Policy on Money Laundering Prevention in the Framework of Criminal Law Reform in Indonesia". Journal of Legal Reform Vol. II No. 1. (January-April 2015), p. 47. url: <https://jurnal.unissula.ac.id/index.php/PH/article/view/1414>, accessed on January 11, 2024.

<sup>6</sup>Rizky, Rudi (Ed.). (2008). Reflection on Legal Dynamics (A Series of Thoughts in the Last Decade). Jakarta: State Printing Company of Indonesia, p. 4.

<sup>7</sup>Sudewo, Fajar Ari. (2021). Restorative Justice Approach for Children in Conflict with the Law. First Edition. Pekalongan: Nasya Expanding Management, p. 45.

<sup>8</sup>Harun, Muhammad and Wati, Briliyan Erna. (2021). Criminal Law for Children. First Edition. Semarang: Rafi Sarana Perkasa, p. 57.

## 2. Research methods

The type of research used in writing this legal journal is sociological juridical, which is descriptive analytical. The data used in this study are primary data and secondary data. According to the data that has been obtained, it is then analyzed using qualitative data analysis.

## 3. Results and Discussion

### 3.1. Law enforcement against criminal acts of fraud through a restorative justice approach by the Semarang City District Attorney's Office.

Criminal acts that occur in society, cause unrest in society and the state, so that when the law is not obeyed, chaos and disorder will arise. Laws are essentially made and enforced to regulate the order of life in society.<sup>9</sup>Criminal acts that occur in society are not merely seen as individual violations, but are also considered as violations of the supremacy of law.<sup>10</sup>Therefore, all efforts and efforts are made to eradicate and reduce these criminal acts, one way to anticipate these criminal acts is by effectively utilizing legal instruments (criminal) through law enforcement.<sup>11</sup>

Law enforcement with criminal law instruments is a means of punishment in efforts to combat crime which leads to achieving community welfare and social protection.<sup>12</sup>From a criminal law perspective, the perpetrator must be held accountable for his crime by imposing criminal sanctions.

Law enforcement against criminal acts is carried out comprehensively without discrimination, both general and special crimes, based on applicable laws and regulations, in order to create order, security and peace in the life of society, nation and state. Indonesia as a country of law, the Indonesian state has an obligation to protect all Indonesian people, is a task that must be carried out by the government, whose obligations are the basic rights of citizens without exception.<sup>13</sup>

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<sup>9</sup>Jawade Hafidz. "Cyberbullying, Social Media Ethics, and Legal Regulations", *Jurnal Cakrawala Informasi* Vol. 1 No. 1. (2021). p. 22. url: <https://itbsemarang.ac.id/sijies/index.php/jci/article/view/147/110>, accessed on January 11, 2024.

<sup>10</sup>Sisno Pujinoto, Anis Mashdurohatun and Achmad Sulchan. "Juridical Analysis Of Application Of Forgiveness (Rechterlijk Pardon) As A Basis Of Judge Consideration In Deciding The Criminal". *Jurnal Daulat Hukum* Volume 3 Issue 2. (June 2020). p. 307. url: <https://jurnal.unissula.ac.id/index.php/RH/article/view/10085>, accessed on January 11, 2024.

<sup>11</sup>Satriana, I Made Wahyu Chandra and Dewi, Ni Made Liana. (2021). *Criminal Justice System: Restorative Justice Perspective*. First Edition. Denpasar-Bali: Udayana University Press, p. 1.

<sup>12</sup>I Putu Angga Feriyana, Anis Mashdurohatun and Arpangi. "Development Of The Criminal Justice System: Initiating LPSK As A Criminal Justice Subsystem In Indonesia", *Jurnal Daulat Hukum* Volume 3 Issue 1. (March 2020). p. 123. url: <https://media.neliti.com/media/publications/324412-development-of-the-criminal-justice-syst-aec32909.pdf>, accessed on January 11, 2024.

<sup>13</sup>Farhan Munirus Su'aidi and Abdullah Arief Cholil. "Law Protection on Wife Whose Claims Fall Due To Husband Refuse His Recompensation On Implementing Of Divorce Pledge". *Jurnal Daulat*

Law enforcement officers, namely law enforcement officers, are required to carry out their duties in accordance with the mandate of statutory regulations that lead to decisions with the substance of justice for the parties.<sup>14</sup>

Justice is basically the implementation of the law, in the sense of demanding concrete rights or disputes or violations, a function carried out by an institution by providing binding decisions and aiming to prevent taking the law into one's own hands (*eigenrichting*).<sup>15</sup> The law enforcement function is expected to prevent people from committing crimes.<sup>16</sup> and create a safe, peaceful and calm environment as desired by the community.

Law enforcement is an effort to enforce real legal norms as a code of behavior concerning legal traffic in social, national and state life, which is expected to encourage creativity and an active role in building a society and state, especially in guaranteeing the freedom of human rights because they are basic natural rights, which are inherent in humans and the universe.<sup>17</sup>

Bambang Poernomo stated that law enforcement in modern society is not only interpreted in a narrow sense, but also in a broad sense, such as in Indonesia where law enforcement is linked to human elements and their social environment.<sup>18</sup>

The orientation of criminal law enforcement is emphasized on punishment for the perpetrator, so that in this framework, the position of the victim in the

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Hukum Vol. 2 No. 4. (December 2019). p. 548. url: <https://jurnal.unissula.ac.id/index.php/RH/article/view/8367>, accessed on January 11, 2024.

<sup>14</sup>Iwan Setiyadi and Sri Kusriyah. "Law Enforcement Process Analysis By Agencies Of Provos Indonesian National Police (Inp) On Discipline Violation In The Form Of Crime By Police Members (Case Study In National Police Headquarters)". *Journal of Legal Sovereignty* Vol. 2 No. 2. (June 2019). h. 204. url: <https://jurnal.unissula.ac.id/index.php/RH/article/view/5424>, accessed 11 January 2024.

<sup>15</sup>Wilmar Ibni Rusydan, Umar Ma'ruf and Bambang Tri Bawono. "Judicial Activism In Criminal Case To Ensure The Human Rights Upholding (Study In State Court Of Semarang)". *Jurnal Daulat Hukum* Vol. 2 No. 4. (2019). p. 477. url: <https://jurnal.unissula.ac.id/index.php/RH/article/view/8347>, accessed on January 11, 2024.

<sup>16</sup>Dany Andhika Karya Gita, Amin Purnawan and Djauhari. "Police Authority in Handling Mining Crimes (Illegal Mining) According to Law Number 4 of 2009 (Study in the Indonesian National Police)". *Journal of Legal Sovereignty* Vol. 1. No. 1. (March 2018). p. 28. url: <https://media.neliti.com/media/publications/324281-kewenangan-kepolisian-dalam-menangani-ti-8528ea45.pdf>, accessed on January 11, 2024.

<sup>17</sup>Tasmo and Rahmat Bowo Suharto. "The Legal Consequence Of The Judge Decision In The Case Of Children Criminal Justice Which Is Not Based On Society Research From Society Supervisor (Studies on Settlement Case of Children Crime In State Court of Cirebon)". *Journal of Legal Sovereignty* Vol. 2 No. 4. (2019). h. 565-566. url: <https://jurnal.unissula.ac.id/index.php/RH/article/download/8362/3900>, accessed January 11, 2024.

<sup>18</sup>Muhammad Dani Hamzah. "Law Enforcement in Traffic Accident Criminal Cases Causing Loss of Life". *Jurnal Daulat Hukum* Vol. 1. No. 1. (2018). p. 44. url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/2563>, accessed on January 11, 2024.

criminal law enforcement process is neglected. In the conventional criminal process, only making the victim a witness at the trial level, which does not greatly affect the criminal sentence, the task of prosecution is still given to the Prosecutor who only receives investigation files by the Police to be further processed into the basis for criminal charges, without knowing and understanding the real conditions of the problem between the perpetrator and the victim, and the perpetrator of the crime is in the dock just waiting to receive the sentence that will be imposed on him.

Different only with the restorative justice approach, which is a model for resolving criminal cases by prioritizing recovery for victims, perpetrators and the community. The main principle of restorative justice is the participation of victims and perpetrators, as well as participation of citizens, and law enforcement as facilitators in resolving cases, so that there is a guarantee that the perpetrator will no longer disrupt the harmony that has been created in the community.<sup>19</sup>

The implementation of restorative justice in resolving criminal cases has a goal, namely to empower victims. Perpetrators are encouraged to pay attention to recovery. Restorative justice prioritizes the fulfillment of the material, emotional and social needs of victims of criminal acts. Restorative justice can be said to be successful if the perpetrator can be released from the criminal process and from prison, or in other words the settlement of the case is carried out outside the court.

Several general criminal cases can be resolved using the restorative justice approach at the Semarang City District Attorney's Office, including the case of fraud committed by Mr. AW, and for the fraud committed by the perpetrator, the Public Prosecutor at the Semarang City District Attorney's Office filed an indictment under Article 378 of the Criminal Code or Article 372 of the Criminal Code.

Law enforcement by the Semarang City District Attorney's Office in the case of fraud through a restorative justice approach depends on each case, because not all can be carried out with a restorative justice approach, because it must still be guided by the regulations and requirements contained in Article 4, Article 5 and Article 6 of the Prosecutor's Office Regulation Number 15 of 2020, including that there has been peace between the perpetrator and the victim, the perpetrator has not previously been convicted in a case that has permanent legal force, and in addition, continues to see the developments that are alive and exist in society, so that the Semarang City District Attorney's Office continues to adhere to the requirements in the Prosecutor's Office Regulation Number 15 of 2020.<sup>20</sup>

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<sup>19</sup>Rayun Syahputra., SH, MH, Interview, as Functional Prosecutor at the Semarang City District Attorney's Office, on January 17, 2024.

<sup>20</sup>Rayun Syahputra., SH, MH, Interview, as Functional Prosecutor at the Semarang City District Attorney's Office, on January 17, 2024.

The legal basis for the application of restorative justice in this fraud case at the Semarang City District Attorney's Office is:<sup>21</sup>

- a. Republic of Indonesia Attorney General's Regulation Number 15 of 2020 concerning Case Resolution Based on Restorative Justice;
- b. Guideline Number 24 of 2021 concerning Handling of General Criminal Cases; and
- c. Letter of Order of the Head of the Semarang City District Attorney's Office Number: Print 3628/M.3.10/Eoh.2/10/2023 Dated September 9, 2023.

Not all fraud cases can be resolved through a restorative justice approach, because to be resolved through restorative justice, the requirements contained in Article 4, Article 5 and Article 6 of the Prosecutor's Regulation Number 15 of 2020 must be met. Thus, restorative justice cannot be carried out if in its implementation it does not meet the requirements contained in the Prosecutor's Regulation Number 15 of 2020, so that it can then be resolved through trial.<sup>22</sup>

In this case of fraud, the requirements for resolving the case based on restorative justice have been met, so that the case can be attempted to be terminated based on restorative justice, because the following requirements have been met:<sup>23</sup>

- a. The suspect has never committed a crime;
- b. Criminal acts are only threatened with a maximum of 4 (four) years (First, Article 378 of the Criminal Code), or criminal acts are only threatened with a maximum of 4 (four) years or a maximum fine of Rp. 900,- (nine hundred rupiah) (Second, Article 372 of the Criminal Code);
- c. In the framework of restorative justice, where by considering the existence of peace between the victim and the suspect, where on October 9, 2023 there was a peace agreement between the suspect AW and the victim AR as stated in the Peace Agreement Statement Letter dated October 9, 2023, which in essence states to end the dispute that arose between the suspect and the victim witness not to sue or sue each other in any matter whatsoever after the signing of the Agreement Letter (Article 4 of Perja RJ), so that the peace process can be carried out.

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<sup>21</sup>Rayun Syahputra., SH, MH, Interview, as Functional Prosecutor at the Semarang City District Attorney's Office, on January 17, 2024.

<sup>22</sup>Rayun Syahputra., SH, MH, Interview, as Functional Prosecutor at the Semarang City District Attorney's Office, on January 17, 2024.

<sup>23</sup>Rayun Syahputra., SH, MH, Interview, as Functional Prosecutor at the Semarang City District Attorney's Office, on January 17, 2024.



In addition to fulfilling the requirements in the Prosecutor's Office Regulation Number 15 of 2020, other considerations for resolving fraud cases using a restorative justice approach by the Prosecutor's Office are:<sup>24</sup>

- a. The suspect has not yet enjoyed the results of his actions and has returned all proceeds from the criminal acts he has committed;
- b. The suspect committed the act because of economic necessity, where the suspect is the backbone of the family and lives with his elderly parents. The plan is, the proceeds of his criminal acts that the suspect committed will be used to meet daily needs and to help pay for the treatment of his mother who is suffering from diabetes and cataracts;
- c. Religious figures in the suspect's residence stated that the suspect behaved well in his daily life, worked diligently to help his parents, and never committed acts that disturbed the neighborhood or acts that violated the law. Therefore, religious figures requested and wanted a resolution of the criminal case currently being faced by the suspect using the restorative justice method;
- d. The restorative justice has been approved by the Deputy Attorney General for General Crimes by conducting a virtual expose.

The process of resolving criminal cases using a restorative justice approach by the Prosecutor's Office is carried out in accordance with the provisions of Articles 7 to 14 of the Prosecutor's Office Regulation Number 15 of 2020. Concerning peace efforts, it is regulated in Articles 7-8 of the Prosecutor's Office Regulation Number 15 of 2020, and regarding the peace process, it is regulated in Articles 9-14 of the Prosecutor's Office Regulation Number 15 of 2020.

In the settlement of this fraud case, the conflicting parties and related parties were brought together by the Public Prosecutor as a facilitator on Monday, October 9, 2023, at the Semarang City District Attorney's Office. The parties present in the settlement of the case were: the suspect, the suspect's parents, the victim and his companion, community leaders, investigators and the facilitator prosecutor.<sup>25</sup>

From the meeting between the conflicting parties, namely the perpetrator and victim as well as community leaders, a peace agreement was obtained, as follows:

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<sup>24</sup>Rayun Syahputra., SH, MH, Interview, as Functional Prosecutor at the Semarang City District Attorney's Office, on January 17, 2024.

<sup>25</sup>Rayun Syahputra., SH, MH, Interview, as Functional Prosecutor at the Semarang City District Attorney's Office, on January 17, 2024.



**Peace Agreement****Case Criminal Acts of Fraud Through Restorative Justice****With Suspect AW**

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**PEACE AGREEMENT**

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**Suspect:**

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**Regretting his actions and apologizing to the victim, both parties agreed to make peace.**

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**Victim:**

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**The victim accepted the suspect's apology for the incident, and both parties agreed to reconcile.**

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**Public figure:**

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**Religious figures in the suspect's place of residence asked, pleaded and desired the Public Prosecutor as a facilitator to carry out, support and appreciate the existence of this restorative justice.**

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The responsibility of the perpetrator of a crime towards the victim that is resolved through a restorative justice approach, especially in cases of fraud, is to complete his/her responsibility towards the victim in full according to the mutual agreement, where usually there is a loss that arises, both material and non-material. If the perpetrator's responsibility has been carried out and the victim has accepted it fully and with an open heart, then the perpetrator's responsibility is considered complete.<sup>26</sup>

The resolution of criminal cases through a restorative justice approach by the Prosecutor's Office through mediation or deliberation is in accordance with the values of Pancasila justice, which prioritize humanity and family and in accordance with the legal values and sense of justice that live in Indonesian society.

The restorative justice approach has similarities with the principle of forgiveness in Islamic law which reflects humanitarian values, namely in the rules of punishment for the crime of qisas and diat with the possibility of granting forgiveness/pardon by the victim or his guardian to the perpetrator of the crime,

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<sup>26</sup>Rayun Syahputra., SH, MH, Interview, as Functional Prosecutor at the Semarang City District Attorney's Office, on January 17, 2024.

because this crime is the right of a servant (individual), then the victim or his guardian has the authority to use his rights.<sup>27</sup>

The principle of forgiveness is seen in QS. As-Syuura verses 38-43, where the essence of the verse is that Islamic law highly prioritizes deliberation and forgiveness rather than retaliating against the perpetrator of the crime, because the verse begins with the words "those who answer the call of God, establish prayer, and consult on whatever problems are faced".<sup>28</sup>

As with restorative justice, Islam highly prioritizes humanitarian values in resolving problems between humans through deliberation, by providing a place for victims and/or victims' families in resolving the conflict that occurs.

### **3.2. Obstacles in law enforcement against criminal acts of fraud through a restorative justice approach by the Semarang City District Attorney's Office and efforts to resolve these obstacles.**

The paradigm shift of criminal and sentencing from retributive justice to restorative justice is a necessity. The restorative justice approach is the latest development of the judicial paradigm that has existed in the world so far.

Likewise in Indonesia, restorative justice has also been applied by law enforcement officers in resolving criminal cases, such as in the case of fraud handled by the Semarang City Prosecutor's Office. However, even though restorative justice has been applied, there are still obstacles in law enforcement against fraud through the restorative justice approach by the Semarang City Prosecutor's Office, namely:<sup>29</sup>

#### **a. Legal Substance**

The legal obstacles to the application of restorative justice in resolving fraud cases in Prosecutor's Regulation Number 15 of 2020, namely legal certainty in Article 5 paragraph (2), which states that:

For criminal acts related to property, in the event that there are criteria or circumstances of a casuistic nature which according to the considerations of the Public Prosecutor with the approval of the Head of the District Attorney's Office Branch or the Head of the District Attorney's Office, prosecution can be stopped based on restorative justice carried out while still paying attention to the conditions as referred to in paragraph (1) letter a accompanied by one of letters b or letter c.

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<sup>27</sup>Wahyuningsih, Sri Endah. (2013). Comparative Criminal Law from the Perspective of Religious Law System. Second Edition. Semarang: Unissula Press, pp. 116-117.

<sup>28</sup>Ibid., pp. 117-118.

<sup>29</sup>Rayun Syahputra., SH, MH, Interview, as Functional Prosecutor at the Semarang City District Attorney's Office, on January 17, 2024.

The sentence "circumstances of a casuistic nature" which according to the consideration of the Public Prosecutor with the approval of the Head of the District Attorney's Office Branch or the Head of the District Attorney's Office can be terminated by prosecution based on restorative justice, is not accompanied by a benchmark that can be used by the Public Prosecutor to decide whether a criminal case is of a casuistic nature or not, so that Article 5 paragraph (2) of the Prosecutor's Office Regulation Number 15 of 2020 is open to multiple interpretations and can be used as a loophole for misuse.

b. Legal Structure

Obstacles in terms of legal structure, namely the law enforcement apparatus itself, in this case the Public Prosecutor, who is still passive or less active in participating in resolving criminal cases through a restorative justice approach.

c. Legal Culture

Legal culture here is the legal culture of society related to the legal awareness of society. In Indonesian society, they are not fully aware of the existence of legal restoration, namely the settlement of a criminal act outside the court process. The community only knows that if there is a criminal case, it must be resolved through a trial/trial process which may take time, energy and money.

On the other hand, the victim prefers a resolution through the courts by punishing the perpetrators so that they are deterred. The victim and/or their family do not want a restorative justice agreement at both the Police and Prosecutor's Office levels, so that in the end the case is continued to the Court.

In fraud, sometimes the victim and/or their family ask for compensation that is too large or does not match the losses resulting from the crime itself. The large compensation is compensation for the victim's forgiveness to the perpetrator, and so that the case is not continued to court, so that the perpetrator if he wants to get forgiveness from the victim, and the case is not continued to court, then the perpetrator must provide greater compensation, rather than the perpetrator being sentenced to prison if the case is continued to court.

To overcome these obstacles, the following solutions can be put forward:<sup>30</sup>

a. Legal substance;

It is necessary to outline the parameters for the Prosecutor for cases that are casuistic in nature, so that legal certainty is created and so that there are no multiple interpretations in its application. It is necessary to include considerations that must be taken into account by the Prosecutor in cases of property that can be resolved through restorative justice, such as fraud.

b. Legal structure;

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<sup>30</sup>Rayun Syahputra., SH, MH, Interview, as Functional Prosecutor at the Semarang City District Attorney's Office, on January 17, 2024.

To improve the professionalism of prosecutors to actively participate in the implementation of restorative justice, the Prosecutor's Office needs to improve the quality of human resources by providing training to improve communication skills and adequate knowledge for prosecutors in implementing restorative justice.

c. Legal culture.

A socialization process regarding restorative justice is needed. This socialization process is important so that legal regulations related to restorative justice can function effectively in community life. Understanding the law by the community is very important to be provided so that law enforcement functions effectively.

#### **4. Conclusion**

Law enforcement against criminal acts of fraud through a restorative justice approach by the Semarang City District Attorney's Office depending on each case submitted, because not all can be carried out with a restorative justice approach, because it must still be guided by the regulations and conditions contained in Article 4, Article 5 and Article 6 of the Prosecutor's Regulation Number 15 of 2020, including that there has been reconciliation between the perpetrator and the victim, the perpetrator has not previously been convicted in a case that has permanent legal force, and besides that, continue to see the developments that are alive and exist in society.

The obstacles in enforcing the law against criminal acts of fraud through a restorative justice approach by the Semarang City District Attorney's Office are in terms of: (1) legal substance: Article 5 paragraph (2) of the Prosecutor's Regulation Number 15 of 2020 is not accompanied by a benchmark used by the Public Prosecutor to decide a criminal case on "criteria or circumstances that are casuistic", (b) legal structure: there are still Public Prosecutors who are passive, and (c) legal culture: the public is not yet fully aware of legal restoration. Efforts to resolve these obstacles are in terms of: (a) legal substance: it is necessary to describe the benchmark for casuistic cases that can be applied to restorative justice, (b) legal structure: the Prosecutor's Office improves the quality of human resources with training to improve communication skills and knowledge for Prosecutors; and (c) socialization is carried out to increase public understanding of restorative justice.

## 5. References

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- Dany Andhika Karya Gita, Amin Purnawan and Djauhari. "Police Authority in Handling Mining Crimes (Illegal Mining) According to Law Number 4 of 2009 (Study in the Indonesian National Police)". *Journal of Legal Sovereignty* Vol. 1. No. 1. (March 2018). p. 28. url: <https://media.neliti.com/media/publications/324281-kewenangankepolisian-dalam-menangani-ti-8528ea45.pdf>, accessed on 11 January 2024.
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