

Analysis of Termination of Prosecution Through the Application of Restorative Justice in Mild Criminal Cases (Case Study: Subang District Attorney's Office)

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Abstract. *The restorative justice approach in the Indonesian criminal justice system aims to prioritize restoration over punishment, especially in cases of minor crimes such as receiving and theft handled by the Subang District Attorney's Office. The purpose of this study is to examine the implementation of termination of prosecution through the application of restorative justice in minor criminal cases; to analyze the obstacles to the implementation of termination of prosecution through the application of restorative justice in minor criminal cases and their solutions; to analyze the ideal arrangement of termination of prosecution through the application of restorative justice in minor criminal cases in the future. The approach method used is sociological legal research. The results of this study are the restorative justice approach in terminating prosecution of minor criminal cases at the Subang District Attorney's Office aims to prioritize restoration over punishment. Obstacles in the implementation of restorative justice at the Subang District Attorney's Office include weaknesses in legal substance, legal structure, and legal culture, which hinder the effectiveness of its implementation. The absence of regulations in the Criminal Procedure Code causes this mechanism to rely only on the internal policies of the Prosecutor's Office, while the long bureaucracy and the still retributive legal culture slow down the process of terminating prosecution. To overcome this obstacle, it is necessary to reform the Criminal Procedure Code, simplify bureaucratic procedures, and increase the understanding of law enforcement officers to be more open to the restorative approach. The ideal regulation of restorative justice in terminating the prosecution of minor crimes by revising Article 140 paragraph (2) of the Criminal Procedure Code is a must so that prosecutors have a strong legal basis in carrying out restorative justice.*

Keywords: Crimes; Justice; Prosecution; Restorative; Termination.

1. Introduction

Indonesia is a country of law, so all activities in Indonesia must be based on and in accordance with legal provisions, violations of which will be subject to sanctions stated in the laws in force in this country as a form of law enforcement.¹Sri Endah Wahyuningsih stated that a state of law is a state that enforces law optimally, upholds human rights and guarantees that citizens have the same position in law and government and are required to uphold the law and government without exception. Therefore, law enforcement is one of the parameters in the success of a state of law.²Law enforcement is basically intended to realize justice for every human being, both as an individual and as an Indonesian citizen.

Law Number 11 of 2021 concerning the Prosecutor's Office explicitly stipulates that the Prosecutor's Office has independence and independence in exercising state power in the field of prosecution. The position of the Prosecutor's Office as a government institution that exercises state power in the field of prosecution, when viewed from the perspective of position, means that the Prosecutor's Office is an institution that is under the executive power. Meanwhile, when viewed from the perspective of the prosecutor's authority in carrying out prosecution, it means that the Prosecutor's Office exercises judicial power. In connection with the meaning of the Prosecutor's power in exercising state power in the field of prosecution independently. The Prosecutor's Office in carrying out its functions, duties and authorities is free from the influence of government power, and the influence of other powers. This means that the state will guarantee that Prosecutors carry out their profession without intimidation, interference, temptation, inappropriate interference or disclosure that has not been proven true, both in terms of civil, criminal, and other responsibilities.³

The position of the Prosecutor's Office in criminal justice is decisive because it is a bridge that connects the investigation stage with the examination stage in court. Based on the applicable legal doctrine, a principle that the Public Prosecutor has a monopoly on prosecution, meaning that every person can only be tried if there is a criminal charge from the Public Prosecutor, namely the

¹Bahder Johan Nasution, *The State of Law and Human Rights*, Mandar Maju, Bandung, 2013, p. 1.

² Sri Endah Wahyuningsih, Rismanto, *Criminal Law Enforcement Policy on Combating Money Laundering in the Framework of Criminal Law Reform in Indonesia*, *Journal of Legal Reform*, Vol. II, No. 1, 2015, p. 46-47.

³Brando Aiba, *Position and Independence of the Prosecutor's Office in the Constitutional System of the Republic of Indonesia*, *Lex Administratum*, Vol. IX, No. 2, 2021. p. 210-220

prosecutor's office because only the Public Prosecutor has the authority to bring a suspect of a crime to court.⁴

The granting of authority to waive criminal cases to prosecutors is in accordance with the principles of criminal procedure law regulated in Law No. 4 of 2004 concerning Judicial Power, where one of the principles regulates that trials must be carried out quickly, simply with low costs and freely, honestly and impartially must be applied consistently at all levels of justice. If we pay attention to each of these principles, then with the waiver of criminal cases by prosecutors, the trial process is sufficient to be completed at the Prosecutor's Office so that the trial process does not take a long time.⁵ Simple and low-cost justice can automatically be realized if the judicial settlement process is completed quickly. The simple nature is obtained because the process is not complicated. The administration of this case is large in number and is usually made in several copies, of course this requires a lot of money so that the principle of low costs that is desired to be achieved will be very difficult to realize.⁶

In every handling related to various types of criminal acts such as (extraordinary crime, ordinary crime, and minor motives) there needs to be a distinction, if there is no distinction in its resolution, especially the type of crime where the value of the loss can be repaired and restored as before and is not a serious crime, it is at risk of sacrificing the portion of justice that should be obtained. The victim in this position is not only one of the parties who suffers a loss from the criminal act committed by the perpetrator, here the suspect can also be considered a victim by the pattern of the criminal justice system if it is not in line with the basic objectives of criminal law, namely justice for both parties, therefore an alternative process is needed which is a middle ground from the applicable laws and regulations.

The application of restorative justice in minor crimes that have been carried out at the Subang District Attorney's Office is the crime of receiving and theft, as initially the restorative justice was carried out at the Police level but was unsuccessful, then after the Police submitted the case files and handed over responsibility for the suspect and evidence to the Public Prosecutor, then the Prosecutor's Office studied the case files, so that the Prosecutor's Office took the initiative to apply restorative justice based on the Republic of Indonesia Prosecutor's Regulation (Perja) Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. On that basis, the District Attorney's

⁴Didit Ferianto Pilok, Position and Function of Prosecutors in Criminal Justice According to the Criminal Procedure Code, *Lex Crimen*. Vol. 2, No. 4, 2013, p. 143-155

⁵Daniel Ch. M. Tampoli, Termination of Criminal Prosecution by the Prosecutor Based on Criminal Procedure Law, *Lex Privatum*, Vol. IV, No. 2, 2016, p. 125-132

⁶Yahya Harahap, Discussion of Problems and Application of Criminal Procedure Code Investigation and Prosecution, Sinar Grafika, Jakarta, 2009, p. 37

Office became the initiator in the application of the restorative justice in question.

Implementation of restorative justice at the Subang District Attorney's Office with the defendant APA in 2024 who was suspected of committing the crime of receiving stolen goods as regulated in Article 480 point 1 of the Criminal Code. The case began when the defendant posted a status on Facebook asking whether with Rp. 1.5 million he could get a motorbike to use in the rice fields. The defendant then directed the seller, known as Mr. D., to meet at the agreed location. After checking the condition of the motorbike and assessing that the engine was still in good condition, the defendant paid Rp. 1.4 million in cash. However, it turned out that the motorbike purchased by the defendant was the result of a theft, so the defendant was charged as a receiver of stolen goods.

The purpose of this research is reviewing the implementation of termination of prosecution through the application of restorative justice in minor criminal cases, analyzing the obstacles to implementing the termination of prosecution through the application of restorative justice in minor criminal cases and its solutions and analyzing the ideal arrangement for termination of prosecution through the application of restorative justice in minor criminal cases in the future.

2. Research methods

The research approach uses a sociological legal approach method.⁷ The sociological legal approach is a legal research approach that is based on the legal rules that apply in society and is carried out through observation, interviews or distributing questionnaires.

3. Results and Discussion

3.1 Implementation Termination of Prosecution Through the Implementation of Restorative Justice in Minor Criminal Cases at the Subang District Attorney's Office

The paradigm built in the current criminal justice system determines how the state should play its role based on the authority it has. The state has the authority to regulate its citizens through its organs.⁸ The current conventional criminal justice system often causes dissatisfaction and disappointment because it is considered to fail to provide sufficient space for the interests of victims and

⁷Ronny Hanitijo Soemitro, *Legal Research Methodology and Jurimetrics*, Ghalia Indonesia, Jakarta, 1990, p. 33.

⁸Eva Achjani Zulfa, *Restorative Justice and Pro-Victim Justice*, in the Book *Reparation and Victim Compensation in Restorative Justice, Cooperation between the Witness and Victim Protection Agency and the Department of Criminology*, FISIP UI, Jakarta, 2011, p. 27

perpetrators of crimes.⁹The results that will be achieved from the process of resolving cases through the judicial path are win-lose solutions, with such a nature, there will be a winning party and there will also be a losing party. Resolving a case through traditional judicial paths generally often causes a feeling of "uncomfortable", holding grudges, feeling dissatisfied, feeling unfair and even worse, intending to take revenge.¹⁰

Restorative justice is a concept of thought that responds to the development of the criminal justice system by emphasizing public order and victims who feel marginalized by the current working mechanism of the criminal justice system. Along with the development and dynamics of the law, restorative justice has been accommodated in the Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. Regulation of the Attorney General Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice contains the mechanism for terminating prosecution based on restorative justice. Where it is one form of the process of resolving criminal problems in the criminal justice system, namely in the prosecution stage.¹¹

In the case of the crime of receiving stolen goods handled by the Subang District Attorney's Office with the suspect APA with the following case position: The defendant APA on March 21, 2024 at around 14.00 WIB in Rancasari Village, Pamanukan District, Subang Regency, is suspected of committing the crime of receiving stolen goods as regulated in Article 480 point 1 of the Criminal Code. The case began when the defendant posted a status on Facebook asking whether with Rp. 1.5 million he could get a motorbike to use in the rice fields. Not long after, someone with the Facebook account Dudungdudung offered a blue Suzuki Shogun motorbike without a license plate for Rp. 1.5 million. After negotiating, the price was agreed at Rp. 1.4 million. The defendant then directed the seller, known as Mr. D., to meet at the agreed location. After checking the condition of the motorbike and assessing that the engine was still in good condition, the defendant paid Rp. 1.4 million in cash, then took the vehicle, while Mr. D. left on foot. Based on these facts, the defendant is suspected of having purchased goods that are suspected of originating from the proceeds of crime, and is therefore charged with Article 480 point 1 of the Criminal Code concerning receiving stolen goods.

⁹Agus Setiawan, Restorative Justice for Minor Crime Offenders in the Form of Theft at the Prosecution Level, *Jurnal Juristic*, Vol. 3, No. 3, 2022, pp. 332-345

¹⁰Hanafi Arief and Ningrum Ambarsari, Application of Restorative Justice Principles in the Criminal Justice System in Indonesia, *Al'Adl Journal*, Vol. 10, No. 2, 2018, pp. 173-190

¹¹Angela Claudia Scolastika Manurung, Made Sugi Hartono, and Dewa Gede Sudika Mangku, Implementation of the Principle of Restorative Justice in Criminal Cases of Vandalism (Case Study NO. PDM532/BLL/08/2020), *e-Journal of Yustisia Community*, Ganesha University of Education, Law Study Program, Vol. 4 No. 2, 2021, p. 542-553

The role of the Subang District Attorney's Office is very strategic in resolving the AP A case, when legal issues are increasingly complex in modern times. The increasingly developing patterns of interaction created in a modern and industrialized world, the implementation of restorative justice is not an organic society that creates strong bonds between its members. However, only a small group of individuals in the closest circle of victims and offenders or perpetrators of criminal acts.

The presence of the Circular Letter of JAM Pidum Number: 01/E/EJP/02/2022 dated February 10, 2022 concerning the Implementation of Termination of Prosecution Based on Restorative Justice as a manifestation of legal certainty. Among other things, the contents of Jampidum instruct the Head of the District Attorney's Office to issue a Letter of Determination of Termination of Prosecution (SKP2) Based on Restorative Justice, as a manifestation of legal certainty. One of the contents of the circular states: Termination of prosecution based on restorative justice can be carried out by fulfilling 3 (three) cumulative principle requirements as stipulated in Article 5 paragraph (1), namely: the suspect has committed a crime for the first time; the crime is only threatened with a fine or imprisonment of no more than 5 (five) years; and the value of the evidence or loss is no more than IDR 2,500,000.00 (two million five hundred thousand rupiah).¹²Therefore, based on these provisions, the theft mentioned in Article 480 of the Criminal Code is sufficient to be able to carry out Termination of Prosecution Based on Restorative Justice (receiving, with a maximum prison sentence of 4 years or a maximum fine of IDR 900 thousand).

In considering restorative justice, several mitigating factors for suspect APA were taken into consideration, including that this was the first time the suspect had committed a crime, and that he had the responsibility of being a single parent because his wife worked as a Foreign Worker. In addition, there had been peace between the suspect and witness victim I, where the suspect had compensated the victim for Rp. 1,400,000. The purchase of the motorbike was also not for criminal purposes, but as a means of transportation to work as a farmer. The peace agreement between the suspect, the suspect's family, and the victim showed that there was mutual forgiveness.

This step was taken after obtaining gradual approval, starting from the West Java High Prosecutor's Office (Kejati) to the Attorney General's Office Jampidum. After following the restorative justice mechanism, APA was finally released. The step to stop the prosecution on the basis of restorative justice by considering several principles. Namely the principles of justice, proportionality, public interest, fast, simple, low-cost processes, and criminal law as a last resort.

¹²Soritua Agung Tampubolon, Termination of Prosecution of Criminal Acts of Abuse Based on the Restorative Justice Approach, *Locus Journal of Academic Literature Review*, Vol. 2, Issue 3, 2023, pp. 193–202.

In another case with suspect I. L, who was the perpetrator of the theft of used rails belonging to PT. KAI, on Sunday, October 24, 2021, suspect I. L and two of his colleagues stole scrap metal at the PT Kereta Api Indonesia (KAI) asset storage location located in Pasirbungur Village, Purwadadi District, Subang Regency. After the arrest and legal process, the three perpetrators admitted their mistakes and expressed regret. The Subang District Attorney's Office then facilitated a restorative justice process between the perpetrators and PT KAI as the victim. Through this mediation, a peace agreement was reached, and PT KAI apologized to the perpetrators. As a result, the three were released from legal charges after promising not to repeat similar actions in the future.

However, not all minor criminal cases can be resolved through restorative justice. In the Prosecutor's Regulation Number 15 of 2020, especially Article 5 paragraph 1, it is explained that criminal cases can be stopped from being prosecuted on the basis of restorative justice law if they meet the following certain requirements.

- 1) The suspect is a first-time offender
- 2) The criminal case is only threatened with a fine or a prison sentence of no more than 5 (five) years.
- 3) The value of evidence in a criminal case or the value of losses resulting from the crime is no more than IDR 2,500,000 (two million five hundred thousand rupiah).

Regarding criminal cases related to his property and having categories or conditions that are case-by-case, the public prosecutor may consider terminating the prosecution based on restorative justice. This must of course be approved by the Head of the District Attorney's Office Branch or the Head of the District Attorney's Office. In accordance with Article 5 paragraph 2 of the Prosecutor's Regulation, the requirement for terminating the prosecution is that the suspect must be a perpetrator who has committed a crime for the first time. In addition, it must be accompanied by one of the requirements of Article 5 paragraph 1 letter b or c.

The restorative justice approach in the criminal justice system, as described in the termination of prosecution of minor crimes, seeks to shift the paradigm of justice from mere punishment to restoration. This concept is based on the idea that conventional justice processes tend to produce win-lose solutions, where one party, either the victim or the perpetrator, will feel dissatisfied and even potentially cause revenge. In cases such as those experienced by the suspect APA in the case of receiving stolen goods and IL in the case of theft of used PT KAI rails, the restorative justice approach has been used to resolve cases by emphasizing the interests of the victim and the perpetrator.

Liebmann emphasized that crime is not only a violation of state law, but more than that, it is a violation of social relations that must be restored. This is relevant in the case of APA, where the perpetrator is not part of an organized crime network, but rather someone who does not fully understand the consequences of his actions. Restorative justice allows for a dialogue between the victim and the perpetrator, where the perpetrator can apologize, compensate, and ensure that similar incidents do not happen again. Restorative justice is more oriented towards recovery than revenge, as seen in the case of APA, where the victim has received compensation and there has been reconciliation between the perpetrator and the victim.

In Indonesian regulations, the Attorney General's Office has accommodated restorative justice in the Attorney General's Regulation Number 15 of 2020. This regulation provides a legal basis for the termination of prosecution in cases of minor crimes, such as those experienced by APA and IL. This step is in line with the principles of restorative justice, which focus on restoring the original conditions and balancing protection for victims and perpetrators. The restorative justice approach not only helps reduce the burden on the justice system, but also prevents the domino effect of excessive criminalization of perpetrators of minor crimes, who are often small communities with economic limitations.

3.2 Obstacles to the Implementation of Termination of Prosecution Through the Application of Restorative Justice in Minor Criminal Cases and Their Solutions

In concept *Restorative justice* handling of crimes or criminal acts that occur not only the responsibility of the state but also the responsibility of society. Therefore, the concept of restorative justice is built on the understanding that crimes or criminal acts that have caused losses to both victims and the wider community must be restored, both the losses suffered by the victims and the losses experienced by the community.

There are several inhibiting factors that occur in the implementation *Restorative justice* to case minor criminal acts when analyzed using Lawrence M. Friedman's legal system theory based on the explanation of the results of Mr. Dr. Bambang Winarno, SH., MH. as a Prosecutor at the Subang District Attorney's Office, as follows:

1) Substantive Legal Obstacles

Restorative justice or commonly known as restorative justice is a form of justice that focuses on the recovery of victims, perpetrators of crimes, and society. Another definition of restorative justice is also explained by Tony Marshall. According to Tony Marshall, restorative justice is a process when the parties

involved in a crime work together to solve problems and deal with the consequences in the future.¹³

The weakness of legal substance in the implementation of restorative justice in the prosecutor's office mainly lies in the absence of regulations in the Criminal Procedure Code (KUHAP), so that the legal basis for its implementation is still limited to the internal regulations of the Prosecutor's Office, namely the Attorney General's Regulation (Perja). This raises a problem because the KUHAP as a criminal procedure law that applies nationally has not accommodated a mechanism for resolving cases outside the court through a restorative justice approach. As a result, restorative justice is still considered an alternative policy that does not yet have a strong position in the criminal justice system in Indonesia.

The absence of regulation in the Criminal Procedure Code causes restorative justice to only be applied in a limited manner to the types of cases regulated in the Perja. The validity of this mechanism is highly dependent on the internal policies of the Prosecutor's Office, which can change at any time according to the considerations of the institution. This creates legal uncertainty because not all law enforcement officers outside the Prosecutor's Office, such as judges and police, have an obligation to apply the same principles in resolving cases. As a result, there is the potential for differences in interpretation in the application of restorative justice, depending on the policies in force in each law enforcement agency.

2) Legal Structural Barriers

Discretion used by government officials must be considered carefully. Careful, especially in assessing whether or not there is malicious intent when making decisions. If a discretion benefits a particular individual and is contrary to the law, then the action can be categorized as a criminal act. Abuse of authority in criminal law is reflected in the element of unlawful nature, which is an essential element in a criminal act. The teaching on unlawful nature serves as a limitation on discretion, which has more specific characteristics compared to the teaching on unlawful acts in general. Therefore, in practice, this aspect must be considered so that the discretion used by the apparatus does not deviate from the principles of criminal law. This is important in various aspects of law enforcement, including in the application of restorative justice which is increasingly used in the criminal justice system in Indonesia.

In the restorative justice process, after Stage 2 has been implemented against the Suspect, the Public Prosecutor has the responsibility to prepare administrative requirements to support the implementation. Restorative *justice*.

¹³Gendut Supriyanto, Restorative Justice in Traffic Crime Cases and Fatal Victims, National Seminar on Realizing a National Legal System Based on Pancasila, Vol. 1, 2024, pp. 103-112

The administration consists of various forms ranging from Form RJ-1 to Form RJ-38, all of which must be completed before the restorative justice process is implemented. This administrative burden requires the Public Prosecutor to work quickly and efficiently, considering that the detention period currently being served by the Suspect has a strict time limit, namely 20 days. This process requires precision so that the implementation of Restorative Justice is not hampered by negligence in fulfilling the required documents, while ensuring that the discretion used in terminating the case does not deviate from the applicable criminal law principles.

In an interview with Dr. Bambang Winarno, SH., MH., as the Head of the Subang District Attorney's Office, he stated that the implementation of restorative justice has major challenges in terms of administration and technical matters. One of the main challenges is ensuring that each stage in the Restorative Justice process not only runs in accordance with applicable regulations but also considers the sense of justice for the parties involved. According to him, the hierarchical bureaucratic system in the Prosecutor's Office often becomes an obstacle to the effectiveness of resolving cases based on restorative justice. In addition, he emphasized that strengthening coordination between various levels of the prosecutor's office, both at the regional and central levels, is very necessary to accelerate the approval process without sacrificing the quality and objectivity of the legal decisions taken.¹⁴

3) Weakness Legal Culture

The legal tradition that has developed in Indonesia so far has focused more on the imposition of sanctions or punishments as a form of retaliation against perpetrators of crimes. As a result, law enforcement officers, including prosecutors, tend to focus more on the application of criminal penalties rather than seeking solutions based on restorative justice that emphasizes the restoration of relations between perpetrators, victims, and the community. One of the main weaknesses in the legal culture that is still dominated by a retributive approach is resistance to the concept of resolving cases outside the courts. Many prosecutors believe that punishment is the only form of justice that can provide a deterrent effect on perpetrators of crimes. criminal this causes the implementation of restorative justice to often experience obstacles because law enforcement prefers formal judicial processes that end in criminal penalties compared to alternative solutions that prioritize deliberation and recovery.

Limited understanding and socialization of restorative justice within the prosecutor's office is also an obstacle. Although the Attorney General's Office has issued guidelines for the implementation of restorative justice in handling certain

¹⁴ Results of an interview with Dr. Bambang Winarno, SH., MH., as Head of the Subang District Attorney's Office on February 1, 2025

cases, not all prosecutors have the awareness or courage to implement it. They are still trapped in the mindset that criminal resolution must always go through trials and judges' verdicts. In fact, in some cases, resolution through the restorative justice mechanism is more effective in preventing recidivism and improving the social impact of criminal acts. On the other hand, the public often demands that perpetrators of crimes be given the heaviest possible punishment as a form of justice, without considering the possibility of recovery for victims or the social impact of imprisonment. Prosecutors who attempt to implement restorative justice often face criticism and are considered not firm in enforcing the law. As a result, they prefer to continue using the conventional approach that is oriented towards punishment rather than taking the risk of implementing non-litigation resolution.

As for the solution to this obstacle to the implementation of restorative justice for minor crimes at the Subang District Attorney's Office are:

a. To overcome the weaknesses of this legal substance, reform is needed in the Criminal Procedure Code by including provisions on restorative justice as part of the criminal procedure system in Indonesia. With a stronger legal basis in the law, restorative justice no longer depends only on the internal policies of the Prosecutor's Office, but becomes an official mechanism that can be applied widely by all institutions.enforcerlaw. In addition, clearer regulations in the Criminal Procedure Code will provide standard procedures, criteria, and limitations in the application of restorative justice, so as to avoid disparities in its implementation in various regions. Without regulations in the Criminal Procedure Code, restorative justice in Indonesia is still in a weak legal position and is at risk of facing various obstacles in its implementation. Its sustainability is highly dependent on the internal policies of the Prosecutor's Office which can change at any time, so that it does not provide legal certainty for victims, perpetrators, or the community. Therefore, strengthening the substantive aspects of the law in the form of higher regulations is very necessary so that the restorative justice mechanism can be applied consistently and effectivelyinnational criminal justice system.

b. To overcome the weaknesses of the legal structure in the implementation of restorative justice in the prosecutor's office, a series of solutions are needed that include reforming the bureaucratic system, strengthening the capacity of law enforcement, and optimizing administrative mechanisms so that the implementation of restorative justice can run more effectively and efficiently. One of the main solutions is simplifying the bureaucracy in the Prosecutor's Office related to the restorative justice approval mechanism. Currently, the process is too long because it has to go through various levels of hierarchy before obtaining approval from the Deputy Attorney General for General Crimes. To overcome this, decentralization of authority can be carried out by giving greater

authority to the District Attorney's Office and the High Prosecutor's Office in providing approval for case resolution based on restorative justice, especially for cases with a minor level of violation. This can speed up the process without having to wait a long time due to the limited schedules of high-ranking officials at the Attorney General's Office. In addition, standardization and digitalization of administration are needed in handling restorative justice. With the many forms that must be filled in, starting from Form RJ-1 to Form RJ-38, the administrative burden for the Public Prosecutor is very large and has the potential to slow down the process. Therefore, a digital-based administration system needs to be implemented to speed up the filling, verification, and archiving of documents. An electronic platform based on e-Justice can be used to support recording and monitoring of the restorative justice process in a transparent and real-time manner, so that each stage can be monitored by superiors without having to wait for tiered physical reports.

c. To overcome this weakness of legal culture, a paradigm shift is needed among law enforcement officers, especially prosecutors, to be more open to the concept of restorative justice. Education and training on this approach must be strengthened, and there needs to be more progressive policy support from the government and judicial institutions so that the restorative approach can be implemented more widely and effectively in the criminal justice system in Indonesia.

3.3 Ideal Settings Termination of Prosecution Through the Implementation of Restorative Justice in Minor Criminal Cases in the Future

In the Indonesian criminal justice system, there is a need for changes to the Criminal Procedure Code,¹⁵ especially in accommodating the restorative justice approach, becomes an urgent need. One of the provisions that needs attention is Article 140 paragraph (2) of the Criminal Procedure Code which regulates the authority of the public prosecutor in prosecuting or terminating a case. The article states that in the event that the public prosecutor is of the opinion that the case does not have sufficient evidence, is not a criminal act, or the case is terminated by law, the public prosecutor can terminate the prosecution by issuing a Letter of Termination of Prosecution (SKP2). However, this provision does not explicitly provide space for termination of prosecution based on restorative justice, so that in practice there are still many minor cases that must be processed through the long and complex regular judicial mechanism.¹⁶

Amendments to Article 140 paragraph (2) of the Criminal Procedure Code are very important to provide a clearer legal basis for the implementation of

¹⁵Noor Rahmad and Wildan Hafis, *Progressive Law and Its Relevance to Legal Reasoning in Indonesia*, El-Ahli: Journal of Islamic Family Law, Vol. 1 No. 2, 2020, p. 1-15

¹⁶Ridwan Mansyur, *Domestic Violence According to the Criminal Justice System in the Perspective of Restorative Justice*, Journal of Law and Justice, Vol. 5 No. 3, 2016, p. 431-336

restorative justice. If the regulation is revised to include the termination of prosecution based on a restorative approach, then public prosecutors can be more flexible in resolving minor cases without having to go through a long trial process. This not only reduces the burden on the court, but also prioritizes the interests of victims by providing an opportunity to obtain direct restitution from the perpetrator. In addition, this revision will reflect the development of modern law which increasingly prioritizes a humanist and participatory approach in resolving criminal cases.

Prosecutor's Regulation Number 15 of 2020 has tried to accommodate restorative justice by giving prosecutors the authority to stop prosecution in certain cases.¹⁷ However, because this regulation is still internal and does not have the same legal force as the Criminal Procedure Code, its implementation is still limited. Therefore, changes to the Criminal Procedure Code, especially in Article 140 paragraph (2), are needed so that the principle of restorative justice has stronger legal legitimacy and can be applied widely in the criminal justice system.

With the revision of Article 140 paragraph (2) of the Criminal Procedure Code, the criminal justice system in Indonesia can be more adaptive to the development of community needs in resolving criminal cases. This will encourage the creation of a more efficient legal mechanism, reduce unnecessary criminalization rates, and provide space for a resolution that is more oriented towards recovery, not just punishment. Thus, the justice produced is not only retributive, but is also able to accommodate the interests of victims, perpetrators, and the community more proportionally.

4. Conclusion

The restorative justice approach in terminating prosecution of minor crimes at the Subang District Attorney's Office is a progressive step that emphasizes restoring social relations rather than punishment. The implementation of this policy is based on Prosecutor's Regulation Number 15 of 2020 and Circular Letter of JAM Pidum Number 01/E/EJP/02/2022, which provide a legal basis for the implementation of restorative justice. However, its implementation still faces various obstacles, including legal uncertainty due to the absence of regulations in the Criminal Procedure Code, complicated bureaucracy, and a legal culture that still tends to be retributive. To optimize the implementation of restorative justice, more adaptive criminal law reform is needed, including a revision of Article 140 paragraph (2) of the Criminal Procedure Code so that prosecutors have a stronger legal basis in terminating prosecution based on restorative justice. In addition, simplifying the bureaucracy and increasing the understanding

¹⁷Asrid Tatumpe, Law Enforcement in Handling Minor Crimes (Tipiring) in Indonesia, *Journal Scientia De Lex*, Vol. 7, No. 2, 2019, p. 1-17

of law enforcement officers regarding the restorative approach are also steps to ensure that justice can be realized more humanely and effectively according to the needs of the community.

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Asrid Tatumpe, Penegakan Hukum Dalam Penanganan Tindak Pidana Ringan (Tipiring) Di Indonesia, *Journal Scientia De Lex*, Vol. 7, No. 2, 2019,

Bahder Johan Nasution, 2013, *Negara Hukum dan Hak Asasi Manusia*, Mandar Maju, Bandung,

Brando Aiba, Kedudukan Dan Kemandirian Kejaksaan Dalam Sistem Ketatanegaraan Republik Indonesia, *Lex Administratum*, Vol. IX, No. 2, 2021.

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