

Effectiveness of Termination of Prosecution of Criminal Theft Cases Based on Restorative Justice (Case Study at the Jembrana District Prosecutor's Office)

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Abstract. *This study aims to determine and analyze how the implementation of the termination of prosecution of ordinary theft criminal cases based on the principle of restorative justice at the Jembrana District Attorney's Office, and to assess the effectiveness of its implementation. This study uses a sociological juridical approach, namely an approach that combines studies of applicable legal norms or regulations with social reality in society. With this method, law is understood not only as a normative text, but also as a social phenomenon that can be studied empirically to see its influence on community behavior. This study is descriptive, with the aim of providing a comprehensive picture of the application of restorative justice in practice. The results of the study show that the Jembrana District Attorney's Office has implemented the termination of prosecution in ordinary theft criminal cases in accordance with Prosecutor's Regulation Number 15 of 2020. In its implementation, the approach used prioritizes the principle of recovery (restorative), as seen in the handling of theft cases. The process of terminating prosecution is carried out through a peace mechanism between the perpetrator and the victim, which involves the participation of families from both parties, the Head of West Loloan Village, investigators, and other community leaders.*

Keywords: *Crime; Effectiveness; Justice; Ordinary.*

1. Introduction

Indonesia is a unitary state in the form of a republic, where the administration of the state is carried out based on applicable laws. Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia mandates that Indonesia is a state of law that adheres to the concept of a welfare state, namely the government's

obligation to carry out the State's mission, as stated in the fourth paragraph of the opening of the 1945 Constitution.¹

Based on the concept of a welfare state, the government is responsible for ensuring the welfare of its citizens through services, assistance, protection, and prevention of social problems. Based on the 5th principle of Pancasila which mandates that social justice for all Indonesian people is a simple translation of the concept of a welfare state. Primarily in this case, to regulate and guarantee the welfare of citizens, laws are needed that regulate the lives of all people in a country.

According to Moh. Mahfud MD, the political configuration of a regime has a very significant influence on the legal products it produces.² In other words, based on the quote, it can be said that law is a political product. As a political product, the characteristics of a legal product are greatly influenced by the consideration of the power of the party that gave birth to it. However, as a product that is expected to be able to maintain the stability of a country, law should have neutral characteristics and protect all parties in a country.

The criminal justice system is essentially a system that seeks to maintain a balance in protecting interests, including the interests of the state, society and individuals, including the interests of perpetrators of criminal acts and victims of crime.³ The criminal justice system can be analyzed through various approaches. Normatively, the criminal justice system views four main law enforcement institutions (police, prosecutors, courts, and correctional institutions) as implementing applicable laws and regulations, where each is an inseparable component of law enforcement. Meanwhile, from a managerial or administrative perspective, these four law enforcement institutions are viewed as an organization that has a certain working mechanism, with horizontal and vertical relationships according to the organizational structure in each institution.

In the context of law enforcement, the officers on duty must base each stage carried out on the Criminal Procedure Code (KUHAP), especially to find a bright spot and prove the criminal elements that occur in an event so that the perpetrator can be determined. While the purpose of Criminal Procedure Law is to seek and obtain or approach the material truth, namely the most complete truth of a criminal case by applying the provisions of the Criminal Procedure

¹Sumaryono and Sri Kusriyah. The Criminal Enforcement of the Fraud Mode of Multiple Money (Casestudy Decision No. 61/Pid.B/2019/PN.Blora). *Jurnal Daulat Hukum*: Volume 3 Issue 1, March 2020, p. 237

²Rai Iqsandri. Political Influence on the Law Enforcement Process in Indonesia. *Journal of Criminology and Justice*: Volume 2 No. 1, October 2022, pp. 1-3

³Debi Triyani Murdiyambroto and Daddy Fahmanadie, "Aspects of Legal Certainty in Restorative Justice at the Investigation Stage of General Criminal Acts by the Republic of Indonesia Police", *Banua Law Review*, Vol. 3 No. 2, October 2021, p. 99.

Code (KUHP) honestly and precisely with the aim of finding out who the perpetrator is who can be charged with committing a violation of the law, and then request an examination and decision from the court to determine whether it is proven that a crime has been committed and whether the person charged can be blamed.⁴

As a binding regulation, Criminal Procedure Law demands the Principle of Legality as the basis for implementing the provisions. Criminal Procedure Law demands the existence of legal provisions that regulate in writing in advance an event before a legal process is carried out on the event. This Principle of Legality later brings its own obstacles in the law enforcement process. The development of human life from the smallest aspects such as changes in mindset to larger aspects such as technological developments has far left behind the development of law that is legal in nature. Currently, the law is expected to be able to adapt to the human mindset that is increasingly thirsty for the fulfillment of expectations from the results of law enforcement. High public attention will highlight law enforcers who act unfairly according to society, especially if the law cannot provide certainty for society.

With the increasing level of attention to law enforcement, the law enforcement process desired by the community is not only focused on giving punishment to suspects or perpetrators of criminal acts but is starting to shift its focus towards giving punishment that is in accordance with the crime committed. In criminal law, the sharpness of criticism of law enforcement has given rise to other methods of resolving cases besides imposing sanctions in the form of imprisonment or fines. In minor crimes, methods of resolving cases through mediation or peace have begun to be developed. This method prioritizes deliberation to reach a consensus or peace. The method of resolving cases using the mediation method in criminal law is known as restorative justice. In positive law, the spirit of restorative justice is stated in several laws and regulations such as Law Number 11 of 2012 concerning the Juvenile Criminal Justice System which is manifested in the law in the form of diversion.

Restorative justice is a terminology that is currently popular in Indonesia. The concept of restorative justice was first studied by Dr. Eva Achjani Zulfa, a Lecturer at the Faculty of Law, University of Indonesia through a Dissertation entitled "Restorative Justice in Indonesia: A Study of the Possibility of a Restorative Justice Approach in Criminal Law Enforcement Practices" in 2009. Then in 2012 through Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, restorative justice entered for the first time in the criminal justice system through diversion efforts that must be carried out at the investigation, prosecution, and trial stages. In 2019, the Prosecutor's Office issued Attorney General Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative

⁴Faisal Salam. Criminal Law in Theory and Practice, (Bandung: Mandar Maju, 2001), p. 1

Justice. The resolution of criminal cases through a restorative justice approach aims to achieve the fairest possible justice, especially for all parties involved in it, and not just prioritize punishment.

In addition to the Prosecutor's Office through the Attorney General's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, other law enforcement institutions such as the Police have also issued provisions regarding the implementation of restorative justice. In 2021, the Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice was issued, which regulates the approach to resolving disputes or criminal acts in a way that prioritizes restoring relations between perpetrators, victims, and the community. In this regulation, the restorative justice process can be carried out at the investigation or inquiry stage or minor crimes by considering several factors, such as the willingness of the perpetrator to take responsibility, an apology to the victim, and the existence of peace between the perpetrator and the victim. The main purpose of restorative justice is to reduce the negative impact of crime and repair social relations damaged by criminal acts, as well as provide an opportunity for perpetrators to improve themselves through mediation and peaceful resolution.

Then another law enforcement apparatus, namely the Supreme Court, also issued provisions regarding dispute resolution with a restorative justice approach. Through the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice, the Supreme Court provides guidelines for judges to apply restorative justice in the criminal justice process, especially in cases with minor crimes that meet certain criteria. Restorative justice is expected to be applied at the trial stage, where the judge encourages the mediation process between the perpetrator and the victim, with the aim of reaching an agreement that benefits both parties, and reducing the social and emotional impact of the crime. The main principle in this approach is the willingness of the perpetrator to admit mistakes, apologize to the victim, and try to repair the losses incurred. Restorative justice also involves the role of the community and related parties in efforts to resolve more holistically and oriented towards recovery.

Theft is one of the oldest crimes in human history, and has existed since humans began to have the concept of ownership. As the oldest crime or crime, theft is very close to society, especially in developing countries such as Indonesia, where the majority of the population is still in the pre-prosperous stage. In positive law in Indonesia, the crime of theft is contained in Article 362 of the Criminal Code, which stipulates that anyone who takes something, which is wholly or partly owned by another person, with the intention of owning it unlawfully, is threatened with theft, with a maximum imprisonment of 5 years or a maximum

fine of nine hundred thousand rupiah. In general, the crime of theft that often occurs in the regions is dominated by ordinary theft with relatively small material losses. Thus, several cases of theft can be categorized as criminal cases whose prosecution process can be stopped based on restorative justice in accordance with the conditions stipulated in the provisions concerning the termination of prosecution based on restorative justice.

Based on the Attorney General's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, the purpose of termination of prosecution based on restorative justice is to achieve justice that is fair and just. To achieve this goal, a case resolution approach is needed that focuses on recovery, not retaliation. In this approach, the perpetrator, victim, the perpetrator's family and the victim's family, and other related parties are involved in seeking a fair and just settlement. With this noble goal, the implementation of termination of prosecution based on restorative justice carried out in each work unit of the Republic of Indonesia Attorney General's Office from the smallest, namely the District Attorney's Office Branch to the central one, namely the Attorney General's Office of the Republic of Indonesia, can be tested for its effectiveness whether the implementation of the termination of prosecution carried out has been truly effective and realized in accordance with the initial purpose of the formation of provisions regarding the termination of prosecution based on restorative justice.

According to Soerjono Soekanto, law can be said to be effective if it has positive legal consequences, where the law achieves its goal of directing or changing human behavior so that it becomes lawful behavior.⁵ Legal effectiveness specifically determines the ability of law to regulate and/or enforce public compliance with the law. Legal effectiveness is an important indicator of the success of a law in society.

One example of a theft case whose prosecution was stopped at the Jembrana District Attorney's Office is the theft committed by the suspect Efendi. Starting on Tuesday, February 25, 2025 at around 21.00 WITA, the suspect left his house at Lingkungan Terusan with the aim of going to a shop in Banjar Baluk I on foot, then the suspect arrived at the shop to drink coffee while listening to music at around 23.00 WITA, then on Wednesday, February 26, 2025 at around 02.00 WITA when the suspect was about to go home, the suspect saw a black Yamaha Jupiter MX motorcycle DK 3662 WW belonging to witness I KOMANG MUDIARSA parked in the yard of Kedai Anggun then the suspect approached the motorcycle and it turned out that the motorcycle key was still attached to the motorcycle's ignition and because the situation around the shop yard was quiet. Then the suspect immediately had the intention to take the motorcycle. Then the suspect

⁵Soerjono Soekanto, *Effectiveness of Law and Application of Sanctions*, (Bandung: CV. Ramadja Karya 1988), 80

immediately took the black Yamaha Jupiter MX motorcycle DK 3662 WW by turning on the ignition key that was still attached, then the suspect immediately took the motorcycle north to go home. That after the suspect managed to take and bring the motorcycle home, but because he was afraid of being caught, the defendant hid the motorcycle in an empty land/garden in Lelateng Village, Negara District. The purpose of the suspect taking the motorcycle was for the suspect to use himself. The actions of the suspect Efendi were charged with Article 362 of the Criminal Code for theft. Finally, through the mechanism of termination of prosecution based on restorative justice, the prosecution of this theft crime case was approved by the Attorney General of the Republic of Indonesia.

2. Research Methods

Research method is a method of working to be able to understand the object that is the target of the relevant science. Method is a guideline for how a scientist studies and understands the environments that are understood.⁶ While research is a method based on a certain systematic method and thinking that aims to solve a scientific problem. In this study, the author used the following research methods: The approach used in this study is sociological juridical. Sociological juridical is an approach based on binding norms or regulations, so that it is expected that from this approach it can be known how the law which is empirically a symptom of society can be studied as a causal variable that causes consequences in various aspects of social life. The type of sociological juridical research uses secondary data as its initial data, which is then continued with primary data in the field or on society, examining the effectiveness of a regulation and at the same time wanting to find a relationship (correlation) between various symptoms or variables, as a data collection tool consisting of document studies or library materials and interviews (questionnaires).⁷

3. Results and Discussion

3.1. Implementation of Termination of Prosecution of Ordinary Theft Crimes Based on Restorative Justice

Restorative Justice or Restorative Justice is an alternative approach in the criminal justice system that emphasizes the restoration of relationships between victims, perpetrators, and the community. This approach does not focus on retaliation or

⁶Soerjono Soekanto, Introduction to Legal Research, Jakarta: UI Press, 1986, p. 14

⁷Amiruddin, Introduction to Legal Research Methods, (Jakarta: PT. Raja Grafindo Persada, 2012)
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punishment alone, but rather on solving problems comprehensively by considering the needs and interests of all parties involved. In this approach, perpetrators are encouraged to understand the impact of their actions, demonstrate a sense of responsibility, and try to repair the losses caused. Meanwhile, victims are given space to express their feelings, needs, and hopes for recovery from the criminal incident they experienced.

Restorative justice differs from the retributive approach in conventional criminal law which prioritizes punishment as a form of retribution against the perpetrator. In restorative justice, the main goal is not merely the imposition of punishment, but also the restoration of social relations and community harmony. Therefore, restorative justice mechanisms often involve mediation between victims and perpetrators, as well as community participation as facilitators of the peace process. This process is voluntary, participatory, and oriented towards mutual agreement that is fair to all parties.

The implementation of restorative justice in Indonesia has received formal legitimacy through the Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice. This regulation provides a legal basis for prosecutors to stop the prosecution process for certain cases on the condition that there has been an agreement between the victim and the perpetrator and there has been a restoration of the original situation. The settlement of cases outside the court is a concrete form of the role of the Prosecutor's Office in bringing law enforcement closer to the values of humanity and substantive justice that live in society.

As an institution that holds the authority to prosecute, the Attorney General's Office of the Republic of Indonesia has a central role in implementing the principle of restorative justice. The Attorney General's Office is not only tasked with carrying out the legal process formally, but is also responsible for ensuring that the law does not lose its value of justice. Therefore, in every legal process, prosecutors are required to consider the aspect of legal benefits, including in determining whether a case is worthy of being resolved through a restorative approach. Thus, the Attorney General's Office can carry out its functions in a balanced manner between strict law enforcement and case resolution that is oriented towards social peace.

Furthermore, in the implementation of restorative justice, the Prosecutor's Office is also required to respect applicable social norms, such as religious norms, politeness, and morality, as well as explore the values of law and justice that live in society (living law). This is important so that every legal step does not merely rely on the text of the regulations, but also reflects a true sense of justice according to society itself. With this approach, the national legal system is not only a tool for punishment, but also a means of more effective and sustainable development, recovery, and prevention of crime.

The Attorney General has important duties and authorities in the criminal justice system, including stopping prosecution by law through a restorative justice approach. This approach aims to increase the effectiveness of law enforcement as mandated by laws and regulations by considering the principles of criminal justice, namely the principles of simplicity, speed, and low cost. This approach is an alternative in handling cases that not only focus on punishment, but also prioritize efforts to restore conditions and social balance in society, especially in cases that meet certain criteria.

In exercising his authority, the Attorney General also has a strategic role in formulating and establishing fair, objective, and impartial prosecution policies. This includes filing charges based not only on written legal rules, but also on substantive justice born from conscience. One of these policies is reflected in the implementation of restorative justice as stipulated in Attorney General Regulation Number 15 of 2020. In its implementation, the termination of prosecution based on restorative justice must be carried out carefully, responsibly, and in accordance with applicable legal provisions, by considering the interests of victims, perpetrators, and the community in a balanced manner.

With the enactment of Attorney General Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, there is an opportunity for the resolution of criminal cases through an approach that prioritizes mediation between the perpetrator and the victim, without having to go through a trial process. This approach places substantive justice and restoration of social relations as the main goal, in contrast to the retributive approach that is oriented towards punishment. However, the application of restorative justice does not necessarily apply to all types of criminal acts. There are certain limitations and criteria that must be carefully considered by the Public Prosecutor before deciding to stop prosecuting a case.

The consideration of whether or not a case can be terminated is part of the authority of the Public Prosecutor which has been regulated in positive legal provisions. Article 14 of the Criminal Procedure Code (KUHP) explains that the Prosecutor has the authority to close a case in the interests of the law. This authority is then further explained in Article 3 paragraph (2) letter e of the Attorney General's Regulation Number 15 of 2020, which states that one of the bases for closing a case by law is if there has been a settlement of the case outside the court. This kind of settlement can only be carried out if it meets the principles and procedures applicable in restorative justice.

Thus, the Public Prosecutor has a strategic role as a filter that determines which cases are worthy of being resolved through a restorative justice approach. In making this assessment, the prosecutor must ensure that all the terms and conditions stipulated in the Attorney General's Regulation Number 15 of 2020 are met. Some aspects that serve as benchmarks include the type of crime, the

value of the loss, and the condition of the relationship between the perpetrator and the victim. This authority not only shows the autonomy of the prosecutor in the prosecution process, but also reflects a shift in the paradigm of law enforcement that is more humanistic and oriented towards social recovery.

Initially, the Restorative Justice paradigm gave the impression of forgiveness for perpetrators of minor crimes. However, along with the development of the paradigm on resolving cases using the restorative justice method, the forgiveness given has increasingly expanded from minor crimes. In the Criminal Code, there are several provisions that are classified as crimes, but based on the conditions stated in the Attorney General's Regulation Number 15 of 2020, it is possible to stop the prosecution based on Restorative Justice. One of the provisions in the Criminal Code is Article 362 of the Criminal Code which is formulated as follows:

Anyone who takes something, which in whole or in part belongs to another person, with the intention of possessing it unlawfully, is liable for theft, with a maximum prison sentence of five years or a maximum fine of nine hundred rupiah.

With a maximum criminal penalty of five years, the crime of theft as referred to in Article 362 of the Criminal Code meets the criteria for prosecution to be terminated based on the restorative justice approach. This refers to the Attorney General's Regulation Number 15 of 2020 which gives the Public Prosecutor the authority to close a case in the interests of the law, especially for crimes that carry a criminal penalty of no more than five years and meet certain requirements. In practice, many theft cases are classified as minor and are actually more appropriately resolved through a non-litigation approach, because if forced into the trial process, it can actually cause injustice to both the perpetrator and the victim. Therefore, the restorative justice approach is a wiser alternative in achieving legal goals that are oriented towards substantive justice and restoration.

It should be emphasized that the termination of prosecution against perpetrators of theft crimes who meet the requirements is not a form of impunity or disregard for the law, but rather a form of law enforcement that takes into account broader legal interests. The legal basis for carrying out this termination can be found in Article 3 paragraph (1) of the Attorney General's Regulation Number 15 of 2020 which states that the Public Prosecutor has the authority to close a case in the interests of the law. In addition, Article 140 paragraph (2) letter a of the Criminal Procedure Code provides the basis that a case can be terminated if there is insufficient evidence, it is not a criminal act, or the case is closed by law. Therefore, when all the requirements are met and mediation between the perpetrator and the victim is successful, termination of prosecution in theft cases can be a way out that is not only legally valid, but also reflects the principle of humane restorative justice.

Based on the provisions of Article 3 paragraph (1) of the Attorney General's Regulation Number 15 of 2020 and Article 140 paragraph (2) of the Criminal Procedure Code, it can be understood that the termination of prosecution based on restorative justice is carried out in the interests of the law. The legal interests referred to are not only the formal interests of law enforcement alone, but also include the restoration of social relations, protection of victims, and prevention of the negative impacts of a prolonged judicial process, especially for minor cases or those that can be resolved peacefully. In this context, the case is not continued to the examination stage in court, because it has been deemed complete through a fair and proportional recovery mechanism outside the litigation system.

Based on the results of interviews with the Public Prosecutor at the Jembrana District Attorney's Office, it is known that the implementation of the termination of prosecution using the restorative justice approach was carried out in full in accordance with the Attorney General's Regulation Number 15 of 2020 and the JAM-Pidum Circular Letter Number: 01/E/EJP/02/2022. This circular serves as a technical guideline for the implementation and affirmation of the implementation of restorative justice so that it runs according to the desired legal principles and objectives. The existence of this Attorney General's Regulation is basically a form of renewal in the Indonesian criminal justice system, especially in handling minor crimes. The aim is to create a humanistic, just, and recovery-oriented law enforcement process, not just punishment.

Furthermore, in the third condition, if there has been an agreement to reconcile accompanied by certain obligations, but the suspect is unable to fulfill these obligations, then the agreement is considered void and the case will continue to the court. Fourth, if a request to stop prosecution based on restorative justice has been submitted, but the High Prosecutor's Office decides not to approve the request, then the legal process will continue through the trial. The Public Prosecutor has the authority to stop efforts or the peace process if there are elements of pressure, coercion, or intimidation originating from the victim, suspect, and/or other parties, as regulated in Article 13 paragraph (1) of the Attorney General's Regulation Number 15 of 2020. Regarding this, the public prosecutor:

- 1) make a report stating that the peace efforts were not achieved;
- 2) make a note of opinion that the case is referred to the court, stating the reasons; and
- 3) submit case files to the court.

Based on the flow of the mechanism shown in the diagram, the resolution of the case through restorative justice is considered successful if the suspect carries out the obligations as stated in the peace agreement. The success of the peace process is determined by the implementation of these obligations. Conversely, if

the suspect does not fulfill the agreed obligations, then the peace is considered to have failed or not achieved. Based on this, the restoration of the original state by the suspect can be done in the following manner (Article 5 paragraph (6) point a):

- 1) return goods to victims obtained from criminal acts;
- 2) compensate the victim for losses;
- 3) reimburse costs arising from criminal acts; and/or
- 4) repair the damage caused by criminal acts.

If a suspect has been detained but then the prosecution of the case is stopped through a restorative justice approach, the Public Prosecutor is obliged to immediately release the suspect once the Letter of Termination of Prosecution (SKP2) is issued. This release process must be officially stated in the minutes, as a form of administrative responsibility as well as accountability for the implementation of the termination of prosecution.

One of the main objectives of the concept of restorative justice, especially in handling minor criminal cases, is to support the principles of fast, simple, and low-cost justice. This principle is emphasized in Article 9 paragraph (5) of the Attorney General's Regulation Number 15 of 2020 which states that the entire peace process and fulfillment of obligations must be carried out no later than 14 (fourteen) days from the handover of responsibility for the suspect and evidence (stage II). This provision shows the Prosecutor's Office's commitment to implementing the principles of efficient and responsive justice to the legal needs of the community.

In this short period of time, the Public Prosecutor facilitated the peace process between the suspect and the victim, but without intervening in the substance of the agreement. As stated in Article 9 paragraph (1) and (3) of the Attorney General's Regulation Number 15 of 2020, the role of the Prosecutor is limited to being a neutral facilitator and must not have any personal or professional ties with the parties involved in the case. This impartiality is an important element in maintaining the integrity of the peace process and ensuring that the agreement reached is the result of voluntary deliberation between the victim and the perpetrator.

The presence of the Prosecutor as a professional and neutral facilitator also ensures that the restorative justice process does not deviate from its main objective, which is to restore social relations damaged by criminal acts. In addition, this mechanism provides space for suspects to take responsibility for their actions without having to go through a long and burdensome trial process. Thus, the termination of prosecution through restorative justice is not only a

humane legal alternative, but also strengthens public trust in a criminal justice system that is fair, effective, and oriented towards recovery, not merely towards revenge. The space given to suspects and victims includes space that leads to negotiations regarding restoration to the original state. The provision of this space is to accommodate the fulfillment of the victim's sense of justice and provide an opportunity for the suspect to be responsible for his actions. This is based on the following interview results:

The negotiation process in restoring the original state is entirely the right of the victim and the suspect. The Public Prosecutor only acts as a facilitator and is not permitted to be directly involved in the negotiation process. In other words, the Prosecutor does not have the authority to provide advice or input during the peace process, because the agreement to reconcile and the form of recovery to be carried out are entirely the result of deliberation between the parties to the case.⁸

Currently in Indonesia, especially in the jurisdiction of the Jembrana District Attorney's Office, the implementation of restorative justice has begun on Wednesday, June 15, 2022. Based on the results of an interview with Ida Bagus Eka Permana Putra, SH as the Public Prosecutor at the Jembrana District Attorney's Office, it was explained that:

The Prosecutor's Office has taken concrete steps in law enforcement reform by issuing Prosecutor's Regulation Number 15 of 2020. This regulation allows prosecutors to stop prosecuting certain criminal cases using a restorative justice approach, as long as the specified requirements are met. The termination of prosecution is not just an authority, but also a means to balance legal certainty and substantive justice, especially for cases with small losses and no broad social impact. In its implementation, the case resolution process is carried out through mediation between the suspect and the victim mediated by the Public Prosecutor. However, the prosecutor only acts as a neutral party who facilitates the dialogue and may not influence the decisions of the parties. The peace agreement that arises from this process must be taken voluntarily by both parties without any intervention or pressure from law enforcement. Through this approach, the Prosecutor's Office seeks to create a criminal justice system that is not only oriented towards punishment, but also provides space for the restoration of social relations between the perpetrator and the victim. The restorative justice approach is expected to be an alternative for resolving criminal cases that is more effective, efficient, and humane.⁹

⁸Results of an interview with the Head of the General Crimes Section of the Jembrana District Attorney's Office, I Wayan Adi Pranata SH, MH, at the Jembrana District Attorney's Office on May 15, 2025

⁹Results of the interview with the Public Prosecutor of the Jembrana District Attorney's Office, Ida Bagus Gede Eka Permana Putra, SH, at the Jembrana District Attorney's Office on May 15, 2025

Specifically, in the Jembrana District Attorney's Office in 2025, a prosecution termination based on restorative justice was carried out in a theft crime case that was threatened with Article 362 of the Criminal Code as many as 1 (one) time. The termination of the prosecution of the theft crime case has the following chronology:

1) Position Case

That the suspect Efendi on Tuesday, February 25, 2025 at around 21.00 WITA the suspect left his house at Lingkungan Terusan with the aim of going to the Warung in Banjar Baluk I on foot, then the suspect arrived at the Warung to drink coffee while listening to music at around 23.00 WITA, then on Wednesday, February 26, 2025 at around 02.00 WITA when the suspect was about to go home, the suspect saw a black Yamaha Jupiter MX motorcycle DK 3662 WW belonging to the victim I Gusti Putu Arya Ernawan parked in the yard of the Anggun Shop then the suspect approached the motorcycle and it turned out that the motorcycle key was still attached to the motorcycle's ignition and because the situation around the yard of the Shop was quiet. Then the suspect immediately had the intention to take the motorcycle. Furthermore, the suspect immediately took the black Yamaha Jupiter MX motorcycle DK 3662 WW by turning on the ignition that was still attached then the suspect immediately took the motorcycle north to go home. After the suspect successfully took and brought the motorcycle home, but because he was afraid of being caught, the defendant hid the motorcycle in an empty land/garden in Lelateng Village, Negara District. The suspect's purpose in taking the motorcycle was for the suspect's own use.

2) Peace Efforts

The Public Prosecutor as Facilitator has succeeded in carrying out Peace Efforts between the Suspect Efendi and the Victim I Gusti Putu Arya Ernawan on April 28, 2025 at the Restorative Justice House at the West Loloan Village Office witnessed by the Village Head and community leaders.

3) Background to the Termination of Prosecution

- a. That the suspect Efendi was committing a crime for the first time.
- b. That the suspect Efendi is threatened with a prison sentence of no more than 5 (five) years.
- c. That there was a restoration to the original condition carried out by the Suspect by returning the goods obtained from the proceeds of the crime, namely the motorbike, to the victim.
- d. That the background to the criminal act committed was based on the economic factors of the suspect who was in a pre-prosperous condition.

e. That there was an unconditional peace agreement between the suspect and the victim on Monday, April 28, 2025 before the Public Prosecutor as the Facilitator Prosecutor.

f. That the suspect and his family have apologized directly to the victim and the victim has forgiven the suspect's mistake.

4) Case History up to Termination of Prosecution

a. SPDP received on March 6, 2025 at the Jembrana District Attorney's Office

b. Order of Appointment of Public Prosecutor dated March 6, 2025

c. The results of the investigation were declared complete (P-21) on March 24, 2025.

d. Handover of Suspects and Evidence (stage two) on April 25, 2025 at the Jembrana District Attorney's Office.

e. Peace Efforts based on Restorative Justice on April 28, 2025

f. Exposure of Cases to be Terminated for Prosecution to the Bali High Prosecutor's Office on May 4, 2025 with the result that the Termination of Prosecution was approved

g. Expose of Cases to be Terminated for Prosecution to the Attorney General cq. Deputy Attorney General for General Crimes of the Republic of Indonesia Attorney General's Office on May 14, 2025 with the result that the Termination of Prosecution was approved

h. Submission of Case Settlement Decree (SKP2) on May 20, 2025

3.2. Weaknesses in the Implementation of Termination of Prosecution of Ordinary Theft Crimes Based on Restorative Justice

The Prosecutor's Office is one of the government institutions that plays a central role in the criminal justice system, especially in implementing state power in the field of prosecution. As an executor of state power, the Prosecutor's Office is not only required to enforce the law formally, but must also be able to realize legal certainty, order, justice, and truth based on applicable law. In carrying out its duties, the Prosecutor's Office is obliged to respect the values that live in society, including religious norms, politeness, and morality. Moreover, the Prosecutor's Office is also responsible for exploring the values of humanity and the sense of justice of society, so that the law enforcement process does not only focus on legalistic aspects, but also pays attention to sociological and moral aspects.

The authority of the Prosecutor in prosecuting is closely related to the principle of *Dominus Litis*, which is the principle that places the Prosecutor in full control of the case after the investigation process is complete. This principle provides space for the Prosecutor to determine whether a case is worthy of being continued to trial or terminated, including through a restorative justice approach that emphasizes restoring the original state and not merely punishment. In this context, the authority of the Prosecutor becomes very important and strategic because the decision to prosecute is not only a matter of evidence in court, but also a matter of consideration of substantive justice, benefit, and efficiency in law enforcement.

From the various requirements and various underlying thoughts, it can actually be said that the implementation of the termination of prosecution based on restorative justice carried out by the Attorney General's Office of the Republic of Indonesia has a noble purpose. Despite having a good purpose, there are still weaknesses in the implementation of the termination of prosecution based on restorative justice in the Attorney General's Office institution.

The correlation with the implementation of restorative justice in Indonesia can be seen from the efforts of the government and legal institutions to adopt similar principles, especially through diversion and mediation programs in child cases and minor criminal cases. The experience of the Netherlands can be an important reference for strengthening mechanisms, improving the quality of implementation, and expanding the reach of restorative justice to be more effective and responsive to the needs of local communities.

Continuing to one example of the implementation of termination of prosecution based on restorative justice on behalf of the suspect Efendi at the Jembrana District Attorney's Office which has been discussed in the previous chapter, the author conducted an interview with I Gusti Putu Arya Ernawan as the victim of the crime of theft in the case. From the results of the interview it was found that the victim was satisfied with the handling of the theft case with this restorative justice approach. The victim felt that the termination of prosecution carried out by the Jembrana District Attorney's Office could facilitate the interests of the victim who expected a restoration to the original situation compared to handling the case to trial. Moreover, because the victim saw the condition of the suspect and understood the factors underlying the criminal act committed by the suspect, the victim felt that the termination of prosecution with this restorative justice approach was much more humane.¹⁰

The results of the interview prove that giving space to victims to express their feelings, perpetrators are given the opportunity to be responsible, and the

¹⁰Interview Results with I Gusti Putu Arya Ernawan, Victim of Criminal Theft under the name of Suspect Efendi, May 20, 2025

community can be involved in the recovery process, making justice not only formal as found in litigation, but also substantive and touching the root of the problems that occur in the field. The restorative justice approach carried out by the Public Prosecutor at the Jembrana District Attorney's Office has also been proven to have significant benefits in preventing stigmatization of perpetrators, especially for perpetrators of crimes who have committed crimes for the first time. By not being entangled in a long legal process and not being burdened with the label as a "convict" or "criminal", perpetrators have a greater chance of returning to society without social pressure that can worsen their psychological and social conditions. This can also indirectly prevent the repetition of criminal acts (recidivists), because perpetrators feel accepted back and given the opportunity to improve themselves. Therefore, restorative justice is not just a matter of resolving cases, but also a social development strategy that is oriented towards true justice.

Based on the results of an interview with one of the community leaders who was also present in the peace process as a witness, he said that he strongly supports the policy of terminating prosecution based on restorative justice implemented by the Prosecutor's Office. According to him, the policy is the right step in realizing a justice system that is more oriented towards peaceful conflict resolution. He also emphasized that this approach provides space for dialogue between victims and perpetrators, which ultimately encourages the formation of awareness and responsibility from the perpetrator to correct mistakes directly to the victim.

Furthermore, the community leader said that community involvement in the peace process is also an added value of the restorative justice approach. The presence of community leaders as witnesses to the peace not only adds legitimacy to the ongoing process, but also reflects that resolving cases is not only the business of the state and law enforcement officers, but a shared responsibility to create social harmony. In this way, efforts to prevent the repetition of criminal acts become more effective because the perpetrators feel accepted back by their social environment.¹¹

Looking at the weaknesses in the implementation of termination of prosecution based on restorative justice that have been discussed in the previous chapter, compared with the reality in the field which shows positive results regarding the implementation of termination of prosecution based on restorative justice, an interesting analysis result was found.

That although the implementation of the termination of prosecution based on restorative justice in the Prosecutor's Office still has various weaknesses, in reality the implementation of the termination of prosecution has proven to be

¹¹Results of Interviews with Community Leaders of West Loloan Village, April 28, 2025

able to reduce the number of theft crimes in Jembrana Regency. This fact seems to confirm the progressive legal theory developed by Prof. Dr. Satjipto Rahardjo. This fact answers that it is true, progressive law rejects the view that law is a closed and static system. On the contrary, law must serve human needs and develop following the dynamics of society. Therefore, the substance of justice is more important than just formal legal procedures.

The achievement of substantive justice through the mechanism of termination of prosecution based on restorative justice in the case example explained in the previous chapter is clearly proven from the results of interviews with victims who stated that the victims felt that the termination of prosecution carried out by the Jembrana District Attorney's Office could facilitate the interests of victims who expected a restoration to the original situation compared to handling the case to trial. Moreover, because the victim saw the condition of the suspect and understood the factors underlying the criminal acts committed by the suspect, the victim felt that the termination of prosecution with this restorative justice approach was much more humane.

4. Conclusion

The implementation of the Restorative Justice principle in the jurisdiction of the Jembrana District Attorney's Office has been carried out in accordance with the Attorney General's Regulation Number 15 of 2020. In its implementation, the Attorney General's Office prioritizes restoring the situation in ordinary theft cases. The process of terminating the prosecution is carried out through peace efforts between the victim and the perpetrator. The peace involves various parties, such as the victim's family, the perpetrator's family, the Head of West Loloan Village, investigators, and community leaders. The process begins with the voluntary agreement between the two parties without pressure or intimidation and ends with the termination of the prosecution by the Public Prosecutor.

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