

Effectiveness of Restorative Justice in Settlement of Criminal Cases Based on the Regulation of the Attorney General's Office (Perja) No. 15 Of 2020 at the Batam District Attorney's Office

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Abstract. *Attorney General's Regulation (Perja) Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice which gives the authority of the public prosecutor to terminate prosecution based on justice is a breakthrough in resolving criminal cases. This study aims to determine the Effectiveness of Restorative Justice in Resolving Criminal Cases Based on Attorney General's Regulation (Perja) No. 15 of 2020 at the Batam District Attorney's Office. In this study, the approach method used is: a sociological legal approach or an approach through direct surveys in the field and secondary data through literature studies. The research specification used is Descriptive Analytical, which is an effort to analyze and explain legal problems related to objects with a comprehensive and systematic description of everything related to the Effectiveness of Restorative Justice at the Batam District Attorney's Office. The Implementation of Restorative Justice at the Batam District Attorney's Office Regarding Termination of Prosecution refers to the Attorney General's Regulation (Perja) Number 15 of 2020 where in this implementation the prosecutor's office prioritizes the value of Justice. The effectiveness of the Implementation of Restorative Justice at the Batam District Attorney's Office is considered quite effective, where there was a decrease in the number of cases from 265 registered cases in 2022 to 246 registered cases.*

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

1. Introduction

In a state of law, law is the main pillar in moving the joints of social, national, and state life. One of the main characteristics of a state of law lies in its tendency to assess actions taken by society on the basis of legal regulations. This means that a state with the concept of a state of law always regulates every action and behavior of its people based on applicable laws. This is done to create, maintain and defend peace in social life in accordance with what is mandated in Pancasila and the 1945 Constitution, namely that every citizen has the right to feel safe and free from all forms of crime.

The Republic of Indonesia is a country based on law as stated in the 1945 Constitution, the consequence of the Republic of Indonesia as a country based on law is created by the existence of a judicial institution where this institution is a requirement for a country that calls itself a country based on law or a country based on law. The Attorney General's Office of the Republic of Indonesia is one of the state government institutions that exercises state power in the field of prosecution. The Attorney General's Office of the Republic of Indonesia issued Attorney General's Regulation (Perja) Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. According to this regulation, the Public Prosecutor (JPU) has the right to stop the prosecution process against the defendant for certain cases if there is a peace agreement between the victim and the defendant.

With the issuance of the Attorney General's Regulation (Perja) Number 15 of 2020, it is hoped that this will be good news for the public who consider minor criminal cases not worthy of being continued to court. It is said to be unworthy because the court costs incurred are not comparable to the value of the loss from the crime, if there is a desire from the victim to reconcile and if the case is continued, it has the potential to harm public justice. Therefore, the Attorney General's Regulation (Perja) Number 15 of 2020 is expected to be able to overcome the dilemma of over capacity in the courts.

Indonesia adopts an integrated criminal justice system based on the principle of functional differentiation. Every law enforcement officer carries out law enforcement in accordance with the mechanism of the authority process given to each law enforcement officer based on what is regulated in the law. The mechanism of the integrated criminal justice system is intended to prove up to convicting people who commit crimes. In other words, to prove someone guilty or not, it must go through a process regulated in the procedural law implemented by the state apparatus at every stage.

The criminal justice system in Indonesia consists of four components, namely the Police, the Prosecutor's Office, the Court and the Correctional Institution. These four components are expected to work together and form the functioning of an

integrated criminal justice system. The criminal justice process in Indonesia consists of a series of stages starting from investigation, inquiry, arrest and detention by the police, prosecution by the prosecutor's office, examination at trial, to sentencing by the court and correctional institution. These stages are very complex activities. All of them aim to find and bring closer the material truth, namely the most complete truth of a criminal case by establishing the provisions of criminal procedure law honestly and accurately.

A prosecutor is a state apparatus whose duty or authority is to prosecute defendants. The public assumes that their duties are the same as those of a public prosecutor. In fact, both have different duties. The duties and authorities of a prosecutor are regulated in Article 30 of Law of the Republic of Indonesia Number 11 of 2021 concerning amendments to Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia. The existence of this Law differentiates the duties and authorities between the Attorney General and the Public Prosecutor.

In the Criminal Procedure Code, it is stated that the public prosecutor has the authority to discontinue the prosecution for legal purposes if the case being tried has expired, the evidence presented is inadequate and the suspect has died. Meanwhile, the public prosecutor does not have the authority to discontinue handling of the case to the trial stage if the formal and material requirements of a case have been met. The consequence is that when the perpetrator and victim agree to make peace at the prosecution stage, the public prosecutor will continue to continue the case until it has permanent legal force (trial process).

The existence of the Attorney General's Regulation (Perja) Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice which gives the public prosecutor the authority to terminate prosecution based on justice is a breakthrough in resolving criminal acts. Restorative Justice is an approach to resolving criminal acts that is currently being widely voiced in various countries. Through the restorative justice approach, victims and perpetrators of criminal acts are expected to achieve peace by prioritizing a win-win solution and emphasizing that the victim's losses are replaced and the victim forgives the perpetrator of the crime. To realize this, it is necessary to know how to implement Restorative Justice in Batam City, and whether the implementation of Restorative Justice is still minimal in Batam City.

2. Research Method

Research Methods, are basically a function of the problems and objectives of the research. Therefore, discussions in research methods cannot be separated and must always be closely related to the problems and objectives of the research. What is used in this research consists of approach methods, research specifications, sources and types of data, data collection techniques and data

analysis techniques. The type of research used is sociological juridical research. Sociological juridical is a 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 legal research uses primary data, where the primary data is obtained directly from the source so that it is still raw data.

3. Results and Discussion

3.1. The Process of Implementing Restorative Justice at the Batam District Attorney's Office Since the Enactment of the Attorney General's Regulation (Perja) Number 15 of 2020 Concerning the Termination of Prosecution

In conducting this research, the author uses the theory Justice. Justice according to Aristotle is the appropriateness in human actions. Appropriateness is defined as the middle point between the two extremes of too much and too little. Both extreme ends concerning two people or things. If both people have similarity in the prescribed proportions, each person will receive an unequal share, while violation of this proportion means injustice.

Aristotle emphasized his theory on balance or proportion. According to him, in the state everything is must directed at the ideal ambition the noble one is goodness and goodness must be seen through justice and truth. The emphasis on balance or proportion in Aristotle's theory of justice can be seen from what he did that equal rights must be the same among the same people.¹The point is that on the one hand it is true to say that justice also means equality of rights, but on the other hand it must also be understood that justice also means inequality of rights. So Aristotle's theory of justice is based on the principle of equality. In the modern version the theory is formulated with the expression that justice is carried out when equal things are needed equally and unequal things are treated unequally.

The idea of justice in the relationship with the law for a long time Already put forward by Aristotle and Thomas Aquinas by saying the following:

Justice forms the substance of the law, but its heterogeneous substance is

¹JH Rapar, 2019, Plato's Political Philosophy, Jakarta: Rajawali Press, p. 82.

*composed of three elements: an individual element: the *summum cuique tribuere* (individual justice); a social element: the changing foundation of judgments upon which civilization reposes at any given moment (social justice), and a political element, which is based on the reason of the strongest, represented in the particular case by the state (justice of the state).²*

This matter shows there is a reciprocal influence between law and justice, namely that law is created based on existing just moral values or rules more over in the past and that have lived in society, so the task of the legislators is only to formulate what already exists. While on the other hand there is a possibility that the formulation of the law itself is only intended to provide interpretation, or provide new norms including norms of justice. Regarding what is meant by justice includes two things, namely those concerning the nature of justice and those concerning the content or norms, to act concretely in certain circumstances.

Restorative Justice (Restorative Justice) is an approach to justice that focuses on the needs of victims, perpetrators of crimes, and also involves community participation, and not merely fulfilling legal provisions or merely imposing criminal penalties. In this case, victims are also involved in the process, while perpetrators of crimes are also encouraged to be responsible for their actions, namely by correcting the mistakes they have made by apologizing, returning items that were taken, or by performing community service.

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

The Attorney General has the duty and authority to stop prosecution by law with

²Radbruch & Dabin, *The Legal Philosophy*, (New York: Harvard University Press, 1950), p. 432

a restorative justice approach aimed at increasing the effectiveness of the law enforcement process from legislation by considering the principles of simplicity, speed, low cost, and can formulate and determine policies to handle cases so that the demands submitted are successful impartially for the sake of justice based on conscience and law, including filing demands based on conscience, and law, including filing demands based on restorative justice must be in accordance with applicable provisions based on considerations in accordance with the rules stipulated in Attorney General Regulation Number 15 of 2020.

Normatively, according to Article 1 number 1 of Perja Number 15 of 2020, what is meant by restorative justice is:³

“Restorative Justice is the resolution of criminal cases by involving the perpetrator, victim, the perpetrator/victim's family, and other related parties to jointly seek a just resolution by emphasizing restoration to the original state, and not retaliation.”

Based on these regulations, efforts can be made to resolve minor criminal cases by prioritizing mediation between the perpetrator and the victim. With the existence of Attorney General Regulation Number 15 of 2020, it is possible to stop the prosecution of minor criminal cases and in accordance with the classification or requirements so that they are not continued to the court.

The purpose of restorative justice is to find a way to handle legal violations outside the court or formal justice system. The implementation of Restorative Justice is based on the authority of law enforcement officers called discretion.

The conformity between the theory of justice in the implementation of the principles of Restorative Justice is that both realize justice and law enforcement correctly and minimize the existence of criminal coercion. This is certainly in accordance with the view Aristotle and Thomas Aquinas said the following:

³32 Article 1 paragraph (1) Perja No.15 of 2020

*Justice forms the substance of the law, but its heterogeneous substance is composed of three elements: an individual element: the *sum cuique tribuere* (individual justice); a social element: the changing foundation of judgments upon which civilization reposes at any given moment (social justice), and a political element, which is based on the reason of the strongest, represented in the particular case by the state (justice of the state).⁴*

Currently in Indonesia, especially in the jurisdiction of the Batam District Attorney's Office, the implementation of restorative justice has begun to be enforced as fairly as possible as regulated in the Prosecutor's Office Regulation Number 15 of 2020 concerning Termination of Prosecution based on Restorative Justice. With this policy, prosecutors are given the authority to close cases in the public interest if there has been a settlement of the case outside the court. The settlement of this case is completed at the prosecution stage, namely when the responsibility for the suspect and evidence is transferred from the investigator to the public prosecutor. The settlement of cases based on restorative justice is carried out by making peace efforts between the suspect and the victim offered by without any pressure, coercion or intimidation carried out by the public prosecutor who acts as a facilitator. Peace efforts continue until a peace agreement is approved between the two parties.

Specifically, in 2025, the Batam District Attorney's Office has implemented Termination of Prosecution Based on Restorative Justice in the Case of Article 362 of the Criminal Code concerning Theft. The suspect Andreas Marbun the prosecution was terminated and restorative justice was obtained, this is based on Perja number 15 of 2020.

In the implementation of criminal case resolution based on restorative justice, the principle of justice is always upheld. With the existence of this restorative justice policy, law enforcers are required to uphold justice to the highest degree, and not allow any loopholes for perpetrators of criminal acts. With this, the implementation of restorative justice in the resolution of criminal cases receives special supervision by the Attorney General, especially the Deputy Attorney

⁴Radbruch & Dabin, *The Legal Philosophy*, (New York: Harvard University Press, 1950), p. 432

General for General Crimes (JAMPIDUM).

The conditions for terminating prosecution based on restorative justice are regulated in CHAPTER III of the Prosecutor's Regulation Number 15 of 2020 concerning Termination of Prosecution based on Restorative Justice, which explains as follows:

Article 4 of Prosecutor's Regulation Number 15 of 2020.⁵

1) Termination of prosecution based on Restorative Justice is carried out by taking into account:

- a. The interests of victims and other legally protected interests;
- b. Avoidance of negative stigma;
- c. Avoidance of retaliation;
- d. Community response and harmony; and
- e. Propriety, morality and public order.

2) Termination of prosecution based on Restorative Justice as referred to in paragraph (1) is carried out by considering:

- a. Subjects, objects, categories and threats of criminal acts;
- b. The background to the commission of the crime;
- c. Level of depravity;
- d. Losses or consequences arising from criminal acts;
- e. *Cost and benefit* case handling;
- f. Restoration back to its original state; And
- g. There is peace between the victim and the suspect.

Article 5 of Prosecutor's Regulation Number 15 of 2020.⁶

1. Criminal cases can be closed by law and prosecution stopped based on Restorative Justice if the following conditions are met:

- a. The suspect committed a crime for the first time;
- b. Criminal acts are only punishable by a fine or are punishable by imprisonment for no more than 5 (five) years; and

⁵Article 4 of Regulation No. 15 of 2020

⁶Article 4 of Regulation No. 15 of 2020

c. The crime is committed with the value of the evidence or the value of the loss caused by the crime not exceeding IDR 2,500,000.00 (two million five hundred thousand rupiah).

2. 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 letter b or letter c.

3. For criminal acts committed against people, the body, life and freedom of people, the provisions as referred to in paragraph (1) letter c may be excluded.

4. In the event that a criminal act is committed due to negligence, the provisions in paragraph (1) letters b and c may be excluded.

5. The provisions referred to in paragraph (3) and paragraph (4) do not apply in the event that there are criteria/circumstances of a casuistic nature which, according to the considerations of the Public Prosecutor with the approval of the Head of the Branch of the District Attorney's Office or the Head of the District Attorney's Office, cannot be stopped from prosecution based on Restorative Justice.

6. In addition to fulfilling the terms and conditions as referred to in paragraph (1), paragraph (2), paragraph (3), and paragraph (4), termination of prosecution based on Restorative Justice is carried out by fulfilling the following conditions:

a. There has been a restoration to the original condition carried out by the Suspect in the following manner:

- 1) Returning items obtained from criminal acts to the victim;
- 2) Compensate Victims' Losses;
- 3) Reimburse costs incurred as a result of criminal acts; and/or
- 4) Repairing damage caused by criminal acts;

b. There has been a peace agreement between the Victim and the Suspect; and

c. the community responded positively.

7. If agreed by the Victim and Suspect, the condition for returning to the original condition as referred to in paragraph (6) letter a may be excluded.

8. Termination of prosecution based on Restorative Justice is excluded for cases:

- a. criminal acts against state security, the dignity of the President and Vice President, friendly countries, heads of friendly states and their representatives, public order and morality;
- b. criminal acts that are subject to a minimum penalty;
- c. narcotics crimes;
- d. environmental crimes; and
- e. criminal acts committed by corporations.

Article 6 of the Prosecutor's Regulation Number 15 of 2020 explains that the fulfillment of the requirements for terminating prosecution based on restorative justice is used as a consideration by the public prosecutor as to whether or not the case file can be transferred to the court.

In Article 2 of the Prosecutor's Regulation Number 15 of 2020, termination of prosecution based on restorative justice is implemented based on:

1. Justice;
2. Public interest;
3. Proportionality;
4. Criminal law as a last resort; and
5. Fast, simple and low cost.

This attempt to stop the prosecution is carried out at the prosecution stage, namely when the responsibility for the suspect and evidence (stage two) is handed over to the public prosecutor. Then in Article 8 it is explained regarding the requirements for holding a peace effort carried out by the public prosecutor.

In the event that the peace effort is accepted by the victim and the suspect, it is continued with the peace process. After the peace process is achieved, the victim and the suspect make a written peace agreement before the public prosecutor as stipulated in Article 10 of the Prosecutor's Regulation Number 15 of 2020.

The peace agreement referred to can be a peace agreement accompanied by the fulfillment of certain obligations or a peace agreement without being

accompanied by the fulfillment of certain obligations as stated in Article 10 paragraph (2) of the Prosecutor's Regulation Number 15 of 2020.⁷

3.2. Effectiveness of Implementation of Restorative Justice at the Batam District Attorney's Office

In answering this problem formulation, the author uses the theory of legal effectiveness. According to Soerjono Soekanto, effectiveness is the extent to which a group can achieve its goals so that the law can be said to be effective if there is a positive legal impact, at that time the law achieves its target in guiding or changing human behavior so that it becomes legal behavior based on this opinion, that the effectiveness of the law is how effectively the law works.

The implementation of restorative justice is carried out by the Batam District Attorney's Office as an effort to enforce the law in the midst of society. Where law enforcement is carried out in order to create safe and peaceful conditions, and reconcile the parties involved in the case. The effectiveness of the law according to Romli Atmasasmita, namely the factors that hinder the effectiveness of law enforcement, not only lie in the mental attitude of law enforcement officers (judges, prosecutors, police and legal advisors) but also lie in the legal socialization factor which is often ignored.⁸

The restorative justice approach is considered very suitable for handling minor cases that occur in Batam. This is because the restorative justice approach method is able to accommodate the wishes of the parties involved in the case. So that the case that occurs can be resolved according to the wishes of the parties involved.

To see or measure the success or effectiveness of a law, this can be done by measuring 5 (five) factors, namely: 49

1) The legal factor itself (law)

The Basis of Restorative Justice in the Prosecutor's Office, Prosecutor's Regulation Number 15 of 2020. With this new Prosecutor's Regulation, it also helps in reducing the number of prisoners and realizing true justice in society that is not revenge.

2) Law enforcement factors, namely the parties who form and implement the law.

The Public Prosecutor at the Batam District Attorney's Office approached the victim and the perpetrator to find out the ins and outs of the crime. Then the

⁷Article 10 paragraph (2) Perja No.15 of 2020

⁸Tarigan, Irwan Jasa. (2017). The Role of the National Narcotics Agency with Social Community Organizations in Handling Narcotics Abusers. Deepublish

Public Prosecutor offered both parties to make peace, resolving the problem without causing other problems.

3) Factors of legal means and facilities that support law enforcement

The implementation of Restorative Justice is carried out at the Batam District Attorney's Office, however, if there are parties who are unable to attend/come to the Batam District Attorney's Office, the Public Prosecutor will build a RJ house located in the respective village office.

4) Social factors, namely the environment in which the law applies or is implemented.

The people of Batam City mostly still adhere to old-fashioned thinking and seem difficult to accept change, so it is one of the factors that influences the difficulty of the Batam people to be educated. But with the approach and understanding of the public prosecutor slowly and carefully, the community has begun to open up and be able to accept.

5) Habitual factors in society, namely as a result of creative works that live and grow from hereditary habits in society.

The people of Batam City mostly still hold on to habits that seem to have become part of the customs that have grown up in society. One of them is the habit of consuming alcoholic beverages which is considered commonplace in society, in society this can be found even in public places, or at every celebration. This is what can trigger various criminal acts. Based on the results of research conducted by the author, the effectiveness of Restorative Justice at the Batam District Attorney's Office is considered quite effective, seeing that there are several types of minor criminal cases that have decreased in the number of cases, one of which is the theft case in 2023 there were 246 theft cases included in the case list at the Batam District Attorney's Office, this figure shows a decrease where in 2022 there were 265 theft cases, from these data the author is of the opinion that the implementation of Restorative Justice is considered Effective at the Batam District Attorney's Office.

4. Conclusion

ProcessThe Implementation of Restorative Justice at the Batam District Attorney's Office Regarding Termination of Prosecution refers to the Attorney General's Regulation (Perja) Number 15 of 2020 where in this implementation the prosecutor's office prioritizes the value of Justice. In Article 2 of the Prosecutor's Regulation Number 15 of 2020, The Effectiveness of Restorative Justice Implementation at the Batam District Attorney's Office is considered quite effective. The results of the author's research related to theft cases registered at

the Batam District Attorney's Office have decreased where in 2022 there were 265 cases and in 2022 there was a decrease with a total of 246 registered cases.

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Regulation:

Criminal Code (KUHP)

Law Number 1 of 2012 concerning the juvenile justice system

Law Number 8 of 1981 concerning the Criminal Procedure Code

Regulation No. 15 of 2020

The 1945 Constitution of the Republic of Indonesia