

## Legal Analysis of The Prosecutor's Role in Efforts to Resolute Cases of Criminal Assault Through Restorative Justice (Study of Semarang District Prosecutor's Office)

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**Abstract.** *This research is based on the need for a penal approach that prioritizes recovery, not retaliation. Especially against the criminal acts of persecution that often occur in Indonesian society. The purpose of this study is to analyze the role of the Prosecutor's Office in efforts to resolve cases of criminal acts of persecution through restorative justice based on the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice, analyze how the weaknesses of the implementation of efforts to resolve criminal cases of persecution through restorative justice, and analyze the role of the Prosecutor's Office in efforts to resolve cases of criminal acts of persecution through restorative justice in the future. This study uses a sociological juridical approach method that identifies the law and examines the effectiveness of the law in society through empirical data. The results of this study show that the Prosecutor's Office plays a key role in the dominus litis authority possessed by the prosecutor to pursue cases of criminal acts of persecution through restorative justice, starting from assessing the feasibility of the case, facilitating the mediation/dialogue process, to the issuance of a Decree of Termination of Prosecution (SKP-2). However, in its implementation, the Prosecutor's Office still faces various weaknesses such as normative, structural, technical, and cultural/cultural weaknesses. This study also found that the arrival of the new Criminal Code brings fresh air to the Prosecutor's Office because it opens up great opportunities for strengthening the role of the Prosecutor's Office in making restorative justice the main approach in efforts to resolve cases of criminal acts of persecution.*

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

## 1. Introduction

The Republic of Indonesia is a state based on law as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which means that every aspect of national and state life must be based on law. The principle of a state based on law should be developed and built on the principles of democracy or popular sovereignty, so that laws are not made, determined, interpreted, and enforced absolutely based on power alone. Thus, the principle of a state based on law must not ignore the principles of democracy stipulated in the 1945 Constitution of the Republic of Indonesia.<sup>1</sup> Law is a concept that has many perspectives to interpret. Purnadi Purbacaraka and Soerjono Soekanto compiled several definitions of law, ranging from law as a structured science, law as a discipline, law as a rule and legal system, to law as an art that reflects a sense of justice and harmony in social life. These diverse definitions demonstrate that law cannot be limited to a set of formal rules, but also encompasses the values, behaviors, and social processes that accompany it.<sup>2</sup>

The Indonesian criminal justice system essentially aims to uphold the law while considering the values of justice for victims, perpetrators, and society. The criminal justice system is understood as a working method implemented to address crime through a systematic approach. This mechanism is formed from the interaction of applicable law, the implementation of administrative matters in the criminal justice process, community social actions, and rational system principles. Despite its limitations, all these elements work together to produce a form of law enforcement. Furthermore, the criminal justice system also functions as a crime control system, comprising several institutions such as the police, the prosecutor's office, the general courts, and correctional institutions.

Muladi stated that the criminal justice system is a network of justice systems that implements substantive criminal law, formal criminal law, and criminal enforcement law. However, this system must be viewed within a social context. According to him, being overly formal if based solely on the interests of legal certainty can potentially lead to injustice. Muladi emphasized that the meaning of an integrated criminal justice system is synchronization and harmony, distinguished in several ways. First, structural synchronization, which means harmony between criminal justice system institutions in terms of function and authority. Second, substantial synchronization, which means the conformity between legal norms applied in their implementation. Third, cultural synchronization, which means harmony between the criminal law system and the socio-cultural values that exist in society.

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<sup>1</sup>Zulkarnain R, 2012, The Indonesian Legal State is the Opposite of the *Nachtwachterstaat*, *Fiat Justitia Journal of Legal Studies*, Vol. 5, No. 2, p. 144.

<sup>2</sup>Muhamad Erwin, H. Firman Freaddy, *Introduction to Legal Science*, (Bandung: PT Refika Aditama, 2016), pp. 3-4.

The criminal justice system serves as a tool to eradicate crime. Its purpose is to prevent individuals from becoming victims, resolve criminal cases so that the public feels satisfied that justice has been upheld, and punish those who commit crimes to prevent them from repeating them. Therefore, it can be concluded that the purpose of the criminal justice system is to protect the public from becoming victims of crime by resolving problems and cases that occur so that the public feels safe and strives to prevent the crime from recurring, whether by the same perpetrator or by others. However, in its implementation, this criminal justice system still has many weaknesses, such as ignoring the rights and reparations of victims because it focuses more on the perpetrator, weak legal protection for victims, lack of transparency and accountability, and a slow and expensive judicial process that often does not provide satisfactory results for the victims. As a result, many victims feel they have not received the justice they expected. One concept that has emerged as an effort to overcome these weaknesses is restorative justice.

*Restorative justice* Restorative justice is a legal approach that focuses on restoring relationships between victims, perpetrators, and the community. Restorative justice is a way to resolve disputes (alternative dispute resolution) outside the courts through mediation or deliberation to achieve justice for each party involved. This concept encourages perpetrators to be responsible for their actions against the victim. Actualizing the supremacy of law through restorative justice is essentially the implementation of a law enforcement process in a broad sense, namely justice is upheld not only based on written legal norms, but is oriented towards restoring the original state, reparation of losses suffered by the victim, without emphasizing punishment of the perpetrator (retributive justice) or justice that only focuses on the recovery of the victim (restitutive justice). By restoring conditions to their original state, it should be able to provide benefits to achieve peace and tranquility in society. Therefore, in Latin it is stated that *ius suum cuique tribuere* (law also aims to ensure benefit and peace).<sup>3</sup>

The main concept of restorative justice, which prioritizes restoring the relationship between the victim, the perpetrator, and the community, is known to be relevant in handling criminal cases, such as assault. According to the Criminal Code (hereinafter referred to as the KUHP), the crime of assault is categorized as a crime against the human body. The crime of assault is a violation of the law committed against the body that causes injury or pain, and can even result in death. According to the Big Indonesian Dictionary (KBBI), assault is arbitrary treatment (torture, oppression, and so on). According to Wiryono, assault essentially consists of four conditions that arise from a person's

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<sup>3</sup>Bambang Waluyo, *Design of the Prosecutor's Function in Restorative Justice*, (Jakarta: PT RajaGrafindo Persada, 2016), p. 90.

deliberate actions.<sup>4</sup>First, intentionally causing pain (suffering) means the victim does not need to feel pain, it is enough if the victim feels discomfort (suffering) or discomfort. For example, someone is pushed into a pool, so they get wet, even though they don't want to. Another example is someone being made to stand in the hot sun without their consent. Second, intentionally causing pain means the victim feels pain due to the perpetrator's actions. For example, being hit, slapped, pinched, and so on causes pain. Third, intentionally causing injury means there is a change in the victim's body. For example, being cut by a sharp object, stabbed, cut, and so on causes a wound on the victim's body. Fourth, intentionally harming health means an act is done with the intention of harming someone's health and as a result has that effect. For example, someone is sleeping and sweating, then deliberately exposed to a strong fan, with the intention of making the person catch a cold.

The crime of assault is regulated in the second book of crimes, under Articles 351 to 355 of the Criminal Code. To this day, assault remains a widespread occurrence in society. Assault can occur due to various factors, such as the influence of social circles and delinquency, thuggery, social jealousy, economic pressure and disparity, disharmony in domestic or interpersonal relationships, competition, conflicts of interest, and so on.<sup>5</sup>Abuse is a crime that has the potential to be resolved through restorative justice. Furthermore, restorative justice aims not only to punish the perpetrator but also to repair the damage, provide the perpetrator with the opportunity to take responsibility for their actions, and restore relationships with the victim and the community. This process involves open dialogue between the victim, the perpetrator, and the community with the goal of reaching a mutually beneficial agreement for all parties involved (a win-win solution). In this regard, the Prosecutor's Office plays a crucial role in implementing restorative justice.

The Prosecutor's Office is a law enforcement agency with the authority to continue or terminate a prosecution. As the *dominus litis*, the prosecutor has the authority to assess whether a case is worthy of being resolved through a restorative justice approach. Prosecutors no longer merely act as prosecutors in court, but also act as bridges for the restoration of relationships between victims and perpetrators. This is in line with the issuance of Prosecutor's Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice (hereinafter referred to as Perja No. 15 of 2020), which provides a legal basis for prosecutors to terminate the prosecution process in order to achieve justice through restorative justice if a peace agreement has been reached between the victim and perpetrator and does not cause negative

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<sup>4</sup>Hiro RR Tompodung, et al., (2021), Legal Study of Criminal Acts of Assault Resulting in Death, *Lex Crimen*, Vol. 10, No. 4, p. 67.

<sup>5</sup>Tri Rohmadi, (2020), Study of Law Enforcement on Criminal Acts of Assault Causing Injury at the Trial Stage, *Legal Dynamics*, Vol. 11, No. 3, p. 211.

impacts on society. This restorative justice approach aims to create a more just, fast, and simple resolution of criminal cases and to avoid overcriminalization of minor crimes, including assault. Therefore, the application of restorative justice in cases of assault by the prosecutor's office not only offers efficiency in the legal process but also opens up greater space for restoring the relationship between the victim and the perpetrator, as well as the perpetrator's reintegration into society. However, the application of restorative justice itself still requires a comprehensive understanding of the prosecutor's function within this approach, including the challenges and obstacles encountered in practice. One of the main challenges and obstacles in the implementation of restorative justice is the unequal understanding, resulting in this approach often being misunderstood and not implemented in accordance with the principles of justice. Furthermore, differences in perceptions regarding the restorative justice approach also make it difficult to create a peace agreement between the victim and the perpetrator.

Based on the background description above, the author is interested in further researching the role of the prosecutor's office in resolving criminal acts of abuse through restorative justice, so the author chose the title "Legal Analysis of the Role of the Prosecutor's Office in Efforts to Resolve Criminal Cases of Abuse Through Restorative Justice (Semarang District Attorney's Office Study)".

## **2. Research Methods**

The author used a sociological legal approach in conducting this research. The legal approach was used to analyze various laws and regulations related to the role of the prosecutor's office in resolving cases of assault through restorative justice. Meanwhile, the sociological approach was used to analyze how various types of laws and regulations concerning the role of the prosecutor's office in resolving cases of assault through restorative justice work. Therefore, the sociological legal approach is a legal research method that aims to observe and analyze actual legal regulations and analyze how these legal regulations work in society.

## **3. Results and Discussion**

### **3.1. The Role of the Prosecutor's Office in Efforts to Resolve Criminal Cases of Assault Through Restorative Justice**

The retributive justice approach adopted by the Indonesian criminal justice system emphasizes the aspect of appropriate punishment. This approach is also illustrated by the logic of "an eye for an eye, a tooth for a tooth." In line with this logic, punishment should reflect a form of societal condemnation of specific crimes and violations. Therefore, violations or crimes that elicit the strongest

societal condemnation deserve the harshest punishment.<sup>6</sup>Karl O. Andenaes put forward several characteristics of the retributive justice approach, including:<sup>7</sup>

1. The purpose of punishment is solely for retribution;
2. Revenge is the main goal and does not contain means for other goals, for example for the welfare of society;
3. Guilt is the only condition for the existence of a crime;

The resolution of an act resulting from a crime as the main focus through a restorative justice approach is a new framework in criminal law enforcement. Umbreit in Rufinus Hotmaulana Hutaauruk said "restorative justice is a victim-centered response to crime that allows the victim, the offender, their families, and representatives of the community to address the harm caused by the crime" meaning that restorative justice is a victim-centered response to crime that allows victims, offenders, and their families, as well as community representatives to address the harm caused by the crime.<sup>8</sup>Furthermore, Howard Zehr stated that "crime is a violation of people and relationships. It creates obligations to make things right. Justice involves the victim, the offender, and the community in a search for solutions that promote repair, reconciliation, and reassurance." This means that crime is a violation of people and relationships. Crime creates an obligation to make things right. Justice involves the victim, the offender, and the community in a search for solutions that promote repair, reconciliation, and reassurance.<sup>9</sup> Thus, the restorative justice approach emphasizes the crucial role of the participation and voluntary participation of victims, perpetrators, families of victims and/or perpetrators, and community representatives in the case resolution process. The success of restorative justice depends heavily on communication between the parties to achieve reconciliation without pressure from any party.

An indicator that serves as a benchmark for the effectiveness of the criminal justice system can be seen through the increase or decrease in criminal acts. The Indonesian Criminal Code (hereinafter referred to as the KUHP) applies a retributive justice approach to law enforcement in Indonesia, which tends to focus solely on the perpetrator of the crime. As a result, the concerns and interests of victims are often neglected. In fact, the essence of criminal law enforcement should require that law enforcement, as representatives of the

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<sup>6</sup>Rahmawati, Maidina, et al., *Opportunities and Challenges of Implementing Restorative Justice in the Criminal Justice System in Indonesia*, (Jakarta: Institute for Criminal Justice Reform, 2022), pp. 59-60.

<sup>7</sup>Mertha, I Ketut, et al., *Criminal Law Textbook*, (2016), p. 169.

<sup>8</sup>Hafrida, Usman, *Restorative Justice in the Criminal Justice System*, (Yogyakarta: Deepublish, 2024), pp. 8-9

<sup>9</sup>*Ibid.*, p. 9

state, not only uphold the existence of the law to achieve legal objectives, but also act on behalf of victims to prosecute perpetrators as a form of state protection for victims as citizens.<sup>10</sup> Therefore, the introduction of the restorative justice approach brings a breath of fresh air to the reform of Indonesia's criminal justice system. The restorative justice approach emphasizes creating harmonious conditions and balanced justice for victims and perpetrators of crimes. The criminal case handling mechanism, which previously focused on punishment, has shifted to a process of dialogue and mediation that emphasizes victim recovery. The restorative justice approach aims to produce a fairer and more balanced settlement agreement for both victims and perpetrators.<sup>11</sup>

The Prosecutor's Office holds a primary role in exercising state prosecutorial power within the Indonesian criminal justice system, as stipulated in Article 1 of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia (hereinafter referred to as the Prosecutor's Office Law). In this context, the public prosecutor is the prosecutor authorized to prosecute and exercise other powers pursuant to the law. Furthermore, Article 2 of the Prosecutor's Office Law stipulates that the Prosecutor's Office exercises its functions related to judicial power independently. This article emphasizes that the Prosecutor's Office exercises its powers independently, meaning it is not bound by the influence of government or other powers, and that the Prosecutor's Office is an inseparable entity. This article emphasizes that the Prosecutor's Office must protect the prosecutorial profession in carrying out its professional duties. Prosecutors not only function to prosecute in court, but are also responsible for ensuring that the law enforcement process is carried out according to the principles of justice, certainty, and benefit to the community. The prosecutor's prosecutorial duties are detailed in the Criminal Procedure Code (hereinafter referred to as the Criminal Procedure Code). According to Article 1, point 6 of the Criminal Procedure Code, the definition of a prosecutor and public prosecutor is as follows:

1. A prosecutor is an official who is authorized by this law to act as a public prosecutor and to implement court decisions that have obtained permanent legal force.
2. The public prosecutor is a prosecutor who is authorized by this law to carry out prosecutions and implement judges' decisions.

In line with the development of the modern law enforcement paradigm, the Prosecutor's Office is now also prioritizing a restorative justice approach as a

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<sup>10</sup>Sukardi, *Restorative Justice in Indonesian Criminal Law Enforcement*, (Depok: PT RajaGrafindo Persada, 2020), p. 12.

<sup>11</sup>*Ibid.*, p. 28.

form of criminal law reform that focuses on restoring the original state between victims, perpetrators, and the community. The restorative justice approach within the prosecutor's office is regulated in the Republic of Indonesia Prosecutor's Office Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice. Article 1 number 1 of Regulation Number 15 of 2020 explains that 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 solution that emphasizes restoration to the original state, rather than retaliation. The Prosecutor's Office has discretionary authority to terminate prosecution if it meets the specified formal and material requirements. Thus, the implementation of the restorative justice approach within the prosecutor's office is a concrete form of implementing the objectives of the law that are oriented towards the principles of justice, legal certainty, and legal benefits. This is in line with the legal system theory put forward by Lawrence M. Friedman, that the effectiveness of a legal system depends on three main elements, namely legal structure, legal substance, and legal culture.

In implementing a restorative justice approach, the legal structure element can be seen through the role of the prosecutor's office as an institution that holds formal authority to prosecute. Furthermore, the legal substance element can be reflected in the presence of regulations such as Perja Number 15 of 2020, which serves as a reference for the prosecutor's office in resolving criminal cases through a restorative justice approach. Meanwhile, the legal culture element can be seen from the public's acceptance of the resolution of criminal cases through a restorative justice approach. These three elements are interrelated and form a whole, making them essential requirements for the implementation of a restorative justice approach in the Indonesian legal system. Furthermore, when viewed through the theory of authority according to Bagir Manan, the prosecutor's authority in implementing a restorative justice approach is attribution authority. This means that this authority is granted directly by law or statutory regulations. Therefore, every process of implementing a restorative justice approach within the prosecutor's office must have clear legal legitimacy, be carried out within reasonable discretionary limits, and aim to achieve justice that benefits the community.

To this day, assault remains a common occurrence in society. This can be caused by various factors, including individual factors like uncontrolled emotions, the influence of alcohol or drugs, and motives for revenge or offense. It can also stem from family factors, such as authoritarian parenting styles and a history of domestic violence. It's also not uncommon for assault to occur due to spontaneous situational factors, such as sudden arguments or

misunderstandings.<sup>12</sup>PAF Lamintang states that assault is an intentional act that causes pain or injury to another person. Therefore, a person can be considered to have committed assault if they first had the intention or intention to cause injury or pain to another person.<sup>13</sup>The provisions for criminal acts of assault are regulated in Articles 351 to 355 of the Criminal Code, namely as follows:

#### Article 351 (Criminal Act of Ordinary Assault)

(1)Assault is punishable by a maximum prison sentence of two years and eight months or a maximum fine of three hundred rupiah.

(2)If the act results in serious injury, the guilty party shall be subject to a maximum prison sentence of five years.

#### Article 352 (Criminal Act of Minor Assault)

(1)Except as stated in articles 353 and 356, abuse which does not cause illness or hinder the performance of official work or search is punishable, as light abuse, with a maximum prison sentence of three months or a maximum fine of three hundred rupiah.

The sentence can be increased by one third for people who commit crimes against people who work for them or are their subordinates.

(2)Attempt to commit this crime is not punishable.

#### Article 353 (Criminal Act of Premeditated Assault)

(1)Abuse with premeditation is punishable by a maximum prison sentence of four years.

(2)If the act results in serious injury, the guilty party will be subject to a maximum prison sentence of seven years.

#### Article 354 (Criminal Act of Serious Assault)

(1)Anyone who intentionally seriously injures another person is threatened, for committing serious assault, with a maximum prison sentence of eight years.

(2)If the act results in death, the guilty party will be subject to a maximum prison sentence of ten years.

#### Article 355 (Criminal Act of Premeditated Serious Assault)

(1)Serious assault committed with premeditation is punishable by a maximum prison sentence of twelve years.

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<sup>12</sup>Chazawi, Adami, *Crimes Against Body and Life*, (Jakarta: RajaGrafindo Persada, 2010), p. 55.

<sup>13</sup>PAF Lamintang, *Crimes Against Life, Body, and Health*, (Jakarta: Sinar Grafika, 2010), p. 132.

(2) If the act results in death, the guilty party will be subject to a maximum prison sentence of fifteen years.

Based on the table above, it can be seen that from 2021 to 2025, the Semarang District Attorney's Office has a consistent pattern, namely successfully resolving one case of assault through restorative justice each year. From this data, five cases of assault through restorative justice were resolved for assault cases with a criminal penalty of less than five years. According to the author, this indicates that the application of restorative justice in the Semarang District Attorney's Office is still relatively small because the application of restorative justice is still selective and can only be used in certain cases of assault that meet the requirements in accordance with Perja Number 15 of 2020.

The following is an example of resolving a criminal case of abuse through restorative justice in 2025, namely as follows:<sup>14</sup>

Based on the results of the previous research and description, it can be concluded that the role of the prosecutor's office, in this case the Semarang District Attorney's Office, in efforts to resolve cases of criminal acts of abuse through restorative justice is applied selectively and in stages as regulated in Perja Number 15 of 2020. Cases of criminal acts of abuse that can be resolved through restorative justice have a prison sentence of under 5 (five) years, the suspect has never been convicted, and most importantly there has been a peace agreement between the victim and the suspect. In the context of the legal system theory according to Lawrence M. Friedman, the results of this study indicate that efforts to resolve cases of criminal acts of abuse through restorative justice involve 3 (three) elements, namely legal structure, legal substance, and legal culture. The legal structure can be reflected through the role of the prosecutor's office in overseeing/supervising each stage of the series of restorative justice approach processes from the time the file is submitted to the Prosecutor's Office (Stage II) to the issuance of the Decree of Termination of Prosecution (SKP-2). Legal substance can be reflected through the use of Perja Number 15 of 2020 by the Prosecutor's Office in resolving cases of assault through restorative justice as a normative basis for its implementation. Furthermore, legal culture can be reflected through the voluntary actions of victims, suspects, and the positive response of the community in efforts to resolve cases of assault through restorative justice. Therefore, the success of the restorative justice approach does not stand alone, but rather a combination of legal structure, legal substance, and legal culture. Thus, the role of the prosecutor's office in resolving cases of assault through restorative justice at the Semarang District Prosecutor's Office has produced significant results and received a positive response from the community. However, the effectiveness of

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<sup>14</sup>Results of an interview with Finradost Yufan Madakarah, SH, as Head of the Sub-Section for Pre-Prosecution of General Crimes at the Semarang District Attorney's Office, on August 22, 2025.

this role is still influenced by regulatory limitations and the social dynamics of the parties involved.

### **3.2. Weaknesses of the Prosecutor's Office in Efforts to Resolve Criminal Cases of Assault Through Restorative Justice**

The Prosecutor's Office is a government agency tasked with enforcing the law through a prosecutor. A prosecutor's primary duty is to prosecute. In carrying out their prosecutorial duties, prosecutors are empowered to determine whether a case can be referred to court and the articles under which charges will be filed. Furthermore, based on the principle of opportunity, prosecutors can discontinue prosecution. This principle is the basis for prosecutors to resolve cases of assault outside the courtroom using a restorative justice approach.<sup>15</sup>

The restorative justice approach is an out-of-court settlement that prioritizes justice and balance for both victims and perpetrators. The Indonesian criminal justice system, which is essentially focused only on punishing perpetrators, has shifted to mediation and dialogue with the parties, resulting in a fairer and more balanced solution for all parties involved. The restorative justice approach is intended not only to provide compensation to victims, but also to restore the relationship between the victim and perpetrator. This recovery is implemented through a mutual peace agreement between the victim and perpetrator, as well as other involved parties. In this way, the victim can express the losses they have experienced, and the perpetrator is given the opportunity to repair them through various forms of accountability, such as compensation, community service, or other forms of mutual agreement. The restorative justice approach provides space for victims and perpetrators to be directly involved in resolving the problems they face. Furthermore, the restorative justice approach also provides opportunities for victims and perpetrators to play an active role in deciding a just and beneficial solution for all parties involved (a win-win solution).<sup>16</sup>

Efforts to resolve cases of assault through restorative justice at the Semarang District Attorney's Office have proven to provide numerous benefits for victims, suspects, the community, and law enforcement institutions. The restorative justice approach is a faster, more affordable alternative to resolving cases, focusing on restoring the victim to the pre-crime situation. The restorative justice approach has demonstrated numerous advantages over the conventional judicial process, namely retributive justice.

According to Finradost Yufan Madakarah, SH, the application of restorative justice to cases of assault at the Semarang District Attorney's Office has had a significant impact. The restorative justice approach can prevent cases from

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<sup>15</sup>Waluyo, Bambang, Op.Cit., p. 61

<sup>16</sup>Ibid., p. 92.

undergoing lengthy trial processes due to frequent delays caused by technical factors. Furthermore, it can also be budget-friendly because it eliminates the need for office supplies (ATK), administration, and file handling. In terms of justice, victims can truly recover and receive direct compensation. Furthermore, victims can express their feelings and the impact they experienced and recover psychologically and socially. This creates a more meaningful justice for victims than simply imposing a prison sentence on the perpetrator. In terms of benefits, perpetrators can improve themselves and prevent repeating the same mistakes in the future. In terms of legal certainty, it can be achieved more quickly because the resolution of assault cases through restorative justice can be completed more quickly and efficiently. Thus, three (3) main legal benefits can be achieved through the resolution of assault cases through restorative justice. Through a restorative justice approach, offenders are also given the opportunity to improve themselves, admit mistakes, take responsibility for losses, learn to improve their behavior, and avoid the reputation of being an ex-convict. This can certainly help offenders reintegrate into society without negative stigma.<sup>17</sup>

Another significant impact of implementing a restorative justice approach is reducing the number of prisoners. Criminal cases that qualify for restorative justice automatically eliminate the need for detention, thus reducing the burden on the state budget for food and prison operations. This aligns with national policies that seek to reduce overcapacity in correctional institutions such as detention centers and prisons.

Based on the author's interview with Finradost Yufan Madakarah, SH, various obstacles remain for the Prosecutor's Office, particularly the Semarang District Prosecutor's Office, to overcome in resolving assault cases through restorative justice. The effectiveness of this restorative justice approach cannot be fully achieved without considering a number of weaknesses, such as those stemming from regulatory limitations, institutional structures, technical implementation dynamics, and social and cultural factors.<sup>18</sup> Therefore, the discussion in this second problem formulation will focus on identifying and analyzing the weaknesses of the Prosecutor's Office in efforts to resolve cases of criminal acts of abuse through restorative justice, both through normative, structural, technical implementation aspects, and culture in society that influence the success of the restorative justice approach.

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<sup>17</sup>Results of an interview with Finradost Yufan Madakarah, SH, as Head of the Sub-Section for Pre-Prosecution of General Crimes at the Semarang District Attorney's Office, on August 22, 2025.

<sup>18</sup>Results of an interview with Finradost Yufan Madakarah, SH, as Head of the Sub-Section for Pre-Prosecution of General Crimes at the Semarang District Attorney's Office, on August 22, 2025.

### **3.3. The Role of the Prosecutor's Office in Efforts to Resolve Criminal Cases of Assault Through Restorative Justice in the Future**

The introduction of the new Criminal Code represents a breakthrough in the paradigm shift of punishment in Indonesia, emphasizing modern criminal law, including restorative justice, which focuses on victims. The old Criminal Code, meanwhile, still relied on retributive justice, which focused solely on imposing appropriate punishment on perpetrators for their crimes.<sup>19</sup>

Restorative justice according to Article 1 Number 1 of 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, is an approach in handling criminal cases carried out by involving the parties, namely the victim, the victim's family, the defendant/child, the defendant's family/child, and/or other related parties, with a process and objective that seeks recovery, and not just revenge. Furthermore, based on Number 2 letter b of the Circular Letter of the Republic of Indonesia National Police Number SE/8/VII/2018 of 2018 concerning the Implementation of Restorative Justice in the Settlement of Criminal Cases, that the development of the system and methods of law enforcement in Indonesia shows a tendency to follow the development of social justice, especially the development of the principle of restorative justice which reflects justice as a form of balance in human life, so that deviant behavior from perpetrators of crime is considered as behavior that eliminates balance. Thus, the case resolution model that is carried out is an effort to restore this balance, by burdening the perpetrator with the obligation to consciously admit his mistake, apologize, and restore the damage and loss to the victim as before or at least to a condition similar to the original condition, which can satisfy the victim's sense of justice.

The paradigm shift from retributive justice to restorative justice, as reflected in the new Criminal Code, has also affected the criminal justice system, including the provisions regarding principal penalties. This shift certainly includes changes in the types, nature, and adaptation of principal penalties that differ from those in the old Criminal Code. Therefore, the author can conclude that there are several differences between the old and new Criminal Code. The old Criminal Code regulates principal penalties, which include the death penalty, imprisonment, detention, fines, and suspended sentences. Meanwhile, the new Criminal Code regulates principal penalties, which consist of imprisonment, suspended sentences, supervision sentences, fines, and community service. Thus, new types of penalties have emerged, namely supervision sentences and

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<sup>19</sup> Accessed via <https://marinews.mahkamahagung.go.id/artikel/pidana-kerja-sosial-sebuah-paradigma-baru-pemidanaan-0yv> on December 30, 2025.

community service sentences, as alternatives to imprisonment, which have long been the goal of punishment in Indonesia.<sup>20</sup>

Based on prosecutorial authority, this paradigm shift is of course directly related to the Prosecutor's Office's role as *dominus litis*. This means that in the criminal process, the Prosecutor has the authority to determine whether a case can be prosecuted. In this regard, the Prosecutor's Office functions not only as an institution that brings cases to court but also as a regulator of the direction of case resolution in accordance with the principles of expediency and reparation.<sup>21</sup> This paradigm shift certainly requires the Prosecutor's Office to exercise its authority beyond simply prioritizing criminal prosecution. Therefore, this discussion will focus on analyzing the role of the Prosecutor's Office in resolving assault cases through restorative justice in the future.

### 1. Strengthening the Authority of the Prosecutor's Office

The Prosecutor's Office, as the holder of *dominus litis* authority, plays a role in determining the direction of a case, including deciding whether an assault case is worthy of being directed to a resolution through restorative justice. Finradost Yufan Madakarah, SH, stated that the Prosecutor's Office has now been given the authority to terminate prosecution through Perja Number 15 of 2020. Currently, several High Prosecutors' Offices (Keja) can implement independent restorative justice, so decisions can be made more quickly without having to wait for an exposure to the Jampidum. The final decision to approve or reject an attempt to resolve an assault case through restorative justice is given to the Chief Prosecutor. To date, only a few High Prosecutors' Offices (Kejati) have been able to implement independent restorative justice, including the East Java High Prosecutor's Office, the West Java High Prosecutor's Office, the West Nusa Tenggara High Prosecutor's Office, and the South Sulawesi High Prosecutor's Office. Previously, the case had to be exposed to the Jampidum, so the final decision regarding whether or not to approve or disapprove the prosecution's termination rested with the Jampidum. However, there has now been a slight shift in authority delegated to the Chief Prosecutor, although only in a few regions in Indonesia. The Central Java High Prosecutor's Office is currently just starting to implement independent restorative justice.<sup>22</sup> Granting the Attorney General's Office (AGO) the authority to conduct independent restorative justice will undoubtedly expedite the case handling process, make it more efficient, responsive to the needs of victims and perpetrators, and strengthen the principle of legal expediency. Therefore, strengthening the Attorney General's Office's

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<sup>20</sup>Ibid.

<sup>21</sup>Waluyo, Bambang, Op.Cit., p. 61.

<sup>22</sup>Results of an interview with Finradost Yufan Madakarah, SH, as Head of the Sub-Section for Pre-Prosecution of General Crimes at the Semarang District Attorney's Office, on August 22, 2025.

authority in the future is a prerequisite for ensuring that restorative justice can be implemented consistently and proportionally.

## 2. Regulatory Updates

Regulatory reform is an urgent need to strengthen the Attorney General's Office's position in implementing restorative justice. Future restorative justice implementation cannot be optimal without regulatory reform. Some suggested reform directions include:

- a.* Adjustment of the loss value limit in Perja Number 15 of 2020 to suit economic developments.
- b.* Alignment with the provisions of social work penalties in the new Criminal Code.
- c.* Simplification of restorative justice administrative procedures.

Finradost Yufan Madakarah, SH, said that the loss of Rp. 2,500,000.00 was actually too small for today's era, especially regarding medical costs for victims of criminal acts of assault.<sup>23</sup> This statement indicates that the Prosecutor's Office will need to update Perja No. 15 of 2020 in the future to be more flexible with field dynamics. This update must also consider alignment with the new Criminal Code, particularly regarding community service penalties. Therefore, the update of Perja No. 15 of 2020 is not only a practical necessity but also part of a penal policy that encourages efforts to resolve cases of assault through restorative justice in a more humane and effective manner in the future.

## 3. Strengthening Institutional Structure

According to Lawrence M. Friedman's legal system theory, legal effectiveness is determined by legal structure, legal substance, and legal culture. The role of the Prosecutor's Office in this context can develop through:

- a.* Establishment of a special restorative justice unit at the District Attorney's Office level.
- b.* Increase the number of Restorative Justice Houses at the sub-district or village level.

Strengthening this institutional structure will encourage restorative justice to become a more stable, measurable, and sustainable case resolution procedure. Finradost Yufan Madakarah, SH, added that one of the current structural weaknesses of the Prosecutor's Office lies in limited facilities. He hopes that in

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<sup>23</sup>Results of an interview with Finradost Yufan Madakarah, SH, as Head of the Sub-Section for Pre-Prosecution of General Crimes at the Semarang District Attorney's Office, on August 22, 2025.

the future, facilities for implementing restorative justice will be expanded and strengthened.<sup>24</sup>

#### 4. Collaboration with the Community and Related Institutions

The future implementation of restorative justice depends heavily on the legal culture of Indonesian society. Therefore, the Prosecutor's Office needs to increase collaboration with community leaders, village/sub-district officials, neighborhood association (RT/RW) heads, social service institutions, victim psychologists or counselors, and traditional and religious institutions. This collaboration is crucial because restorative justice aims not only to repair losses but also to restore social relations, neighborhood order, and public trust. Thus, support from the social environment will increase the legitimacy and success of restorative justice. Finradost Yufan Madakarah, SH, emphasized the crucial role of the community, similar to a jury in common law. A positive community response is essential, and community leaders are invited to assess whether the perpetrator deserves a chance.<sup>25</sup>

According to the author, from the description above, the author concludes that the role of the Prosecutor's Office in resolving cases of criminal assault through restorative justice will continue to grow in the future. This development is supported by the expansion of authority through independent restorative justice by the High Prosecutor's Office and the new Criminal Code, which focuses on recovery rather than just retaliation. Field findings through interviews with Finradost Yufan Madakarah, SH, Head of the Pre-Prosecution Sub-Section for General Crimes at the Semarang District Prosecutor's Office, confirm that the Prosecutor's Office itself is aware of these challenges and opportunities and views restorative justice as a fundamental instrument in realizing recovery for victims, perpetrators, and the community. With the new paradigm shift in the new Criminal Code, the direction of future criminal law policy places the Prosecutor's Office in a prime position to encourage the implementation of restorative justice that is broader, more effective, and more responsive to the needs of Indonesian society in the future, particularly in efforts to resolve cases of criminal assault.<sup>26</sup>

#### 4. Conclusion

1. The Prosecutor's Office plays a strategic role as *dominus litis*, determining the direction of resolving cases of criminal assault through restorative justice. This

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<sup>24</sup>Results of an interview with Finradost Yufan Madakarah, SH, as Head of the Sub-Section for Pre-Prosecution of General Crimes at the Semarang District Attorney's Office, on August 22, 2025.

<sup>25</sup>Results of an interview with Finradost Yufan Madakarah, SH, as Head of the Sub-Section for Pre-Prosecution of General Crimes at the Semarang District Attorney's Office, on August 22, 2025.

<sup>26</sup>Results of an interview with Finradost Yufan Madakarah, SH, as Head of the Sub-Section for Pre-Prosecution of General Crimes at the Semarang District Attorney's Office, on August 22, 2025.

role is realized through the enactment of Regional Regulation Number 15 of 2020, which allows prosecutors to terminate prosecution as long as the requirements stipulated in the Regulation are met. Furthermore, a peace agreement between the victim and the perpetrator is also a requirement that must be met without any pressure, coercion, or intimidation from any party. The Prosecutor's Office, in this case the Public Prosecutor, acts as a facilitator who does not take sides in the mediation/dialogue process and ensures the voluntary participation of the parties involved until a mutual agreement is reached. If no mutual agreement is reached, the case file for criminal assault will automatically be transferred to the court. Conversely, if a mutual agreement is reached, a Letter of Decision to Terminate Prosecution (SKP-2) will be issued. 2. The implementation of restorative justice in the Prosecutor's Office, particularly in the Semarang District Prosecutor's Office, has not been fully optimal due to several weaknesses, including normative, structural, technical, and cultural weaknesses. Normative weaknesses, such as those concerning the limits of losses and the requirements for restorative justice in Regulation Number 15 of 2020, are often inconsistent with current circumstances. Structural weaknesses, such as the multi-tiered restorative justice process, result in lengthy implementation times and limit the effectiveness of restorative justice. Technical weaknesses, such as the difficulty of bringing victims into the mediation/dialogue process and the limited implementation time of only 14 (fourteen) days from Phase II. Cultural weaknesses, such as the public's focus on revenge/punishment rather than recovery, and the community's inactive role in the restorative justice process. These weaknesses mean that not all cases of assault can be resolved through a restorative justice approach.

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