

Termination of Prosecution Based on Restorative Justice in the Handling of Domestic Violence Crimes

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ABSTRACT: This study aims to analyze the implementation of prosecution termination based on restorative justice in Domestic Violence (DV) cases, as regulated in the Indonesian Prosecutor's Regulation No. 15 of 2020. The research is grounded on the legal opportunity that allows prosecutors to discontinue DV cases when specific conditions are met, including a voluntary reconciliation agreement, the offender's acknowledgment of wrongdoing, and restitution or recovery for the victim. The urgency of this research lies in balancing formal law enforcement with a more humanistic and victim-centered approach. The study employs a normative juridical method using both statutory and conceptual approaches, supported by literature review. The findings reveal that implementing restorative justice in DV cases faces significant challenges, such as power imbalances, the risk of re-traumatization, and limited regulatory and institutional capacity. Nevertheless, when applied with caution, strict procedures, and adequate legal and psychological support, restorative justice can serve as an effective instrument for achieving true victim recovery, restoring human dignity, and fostering substantive accountability from the offender. This research concludes that restorative justice should not merely be seen as an alternative to prosecution but as a meaningful path toward a more humane and substantial form of justice.

KEYWORDS: domestic violence; offender accountability; prosecution; restorative justice; victim recovery.

I. INTRODUCTION

Law is a set of norms formally positivized by the state authorities as a product of political processes, which can be observed through the context and interests underlying the creation of law and how the law is implemented within society.¹ A country's legal order applies not merely because it is rooted in the life or the spirit of the nation, nor because it is based on natural law, but because it has been formally enacted in its positive form by the competent authorities.²

Gustav Radbruch provides a conception of the very essence of law enforcement in society, which is grounded in justice, expediency, and legal certainty.³ It is undeniable that, today, law enforcement officers in Indonesia face significant challenges in implementing the law, particularly in achieving the abstract value of justice in its practical application. This can be seen from the increasing number of legal resolutions that require special attention to ensure the realization of justice within society. One example of a state institution acting as a law enforcement body is the Attorney General's Office of the Republic of Indonesia. The Attorney General's Office has introduced a new breakthrough in Indonesia's criminal justice system through a policy known as restorative justice.

The implementation of restorative justice represents a concrete step in developing a humanistic legal paradigm, one that emphasizes not only legal utility and certainty but also a balanced and equitable realization of justice for all parties involved. Over time, restorative justice has evolved into a legal breakthrough in case handling as part of criminal law reform, particularly within

¹ Abdus Salam, "Pengaruh Politik Dalam Pembentukan Hukum Di Indonesia," *Mazahib Jurnal Pemikiran Hukum Islam* 14, no. 2 (2015): 119–131.

² Teguh Prasetyo and Abdul Halim Barkatullah, "Filsafat Teori Dan Ilmu Hukum, Pemikiran Menuju Masyarakat Yang Berkeadilan Dan Bermartabat," *Raja Grafindo Persada* (2014): 200.

³ Mega Alman Pratistaning Utami, "Implementasi Sanksi Pidana Kebiri Bagi Pelaku Tindak Pidana Kekerasan Seksual Terhadap Anak Dalam Konsepsi Kepastian Hukum" (Universitas Islam Sultan Agung Semarang, 2024).

Termination of Prosecution Based on Restorative Justice in the Handling of Domestic Violence Crimes

the framework of criminal law policy as an expression of legal politics. As a mechanism in resolving cases, restorative justice is considered capable of meeting society's urgent demand for justice, including its application in cases of domestic violence.⁴

Domestic violence refers to any act committed against an individual, particularly a woman, that results in physical, sexual, psychological suffering or distress, and/or household neglect, including threats to commit such acts, coercion, or unlawful deprivation of liberty within the household sphere.⁵ With regard to the household, the law regulates who is included within the scope of the household, namely the husband, the wife, and the children. It also includes individuals who have familial relations with the husband, wife, or children by blood, marriage, breastfeeding, care, or guardianship, and who reside in the household; and/or persons who work to assist the household and reside within the household.

In reality, domestic violence cases occur frequently, while the Indonesian legal system has not yet fully guaranteed protection for victims of domestic violence. One of the reasons is that the handling of domestic violence cases is often overlooked, as it is considered not a matter of public concern but rather a domestic issue that can be resolved informally. As a result, domestic violence offenses often fail to achieve justice for victims.

The enactment of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (UU PKDRT) brought renewed hope for law enforcement officials in handling such cases. The law has fundamental objectives: to prevent all forms of domestic violence; to protect victims; to take action against perpetrators; and to preserve the harmony and welfare of the household.

The Indonesian government has provided space for law enforcement agencies to take special action against perpetrators of domestic violence. This offense has become a matter of particular concern, considering that it encompasses not only physical violence but also psychological violence, sexual violence, and household neglect. Given the wide-ranging impacts of domestic violence, it is unsurprising that continual legal renewal is expected in the handling of such cases.

Restorative justice has emerged as one of the available options for resolving domestic violence cases. However, its implementation still faces numerous challenges. Law enforcement agencies often overlap in applying restorative justice principles, as each stage of the criminal justice process within different institutions has its own guidelines for resolution through restorative justice.

One example is the Prosecutor's Office of the Republic of Indonesia, which issued the Attorney General Regulation Number 15 of 2020 on the Termination of Prosecution Based on Restorative Justice, and the Circular Letter of the Deputy Attorney General for General Crimes Number: 01/E/EJP/02/2022. As a governmental institution exercising state authority in the field of prosecution, the Prosecutor's Office must be able to realize legal certainty, legal order, justice, and truth based on the law while upholding religious norms, propriety, and morality, and must explore the humanitarian, legal, and justice values that live within society.

Accordingly, the settlement of criminal cases should prioritize restorative justice, which emphasizes restoring conditions to their original state and balancing the protection and interests of both victims and perpetrators, rather than focusing on retribution. This approach is a legal necessity for society and a mechanism that must be built into the exercise of prosecutorial authority and the reform of the criminal justice system. Thus, it is expected that the termination of prosecution based on restorative justice can be carried out in accordance with the principles of justice, public interest, proportionality, the use of criminal sanctions as a last resort (*ultimum remedium*), and efficiency in terms of time, simplicity, and cost.

Restorative justice refers to the settlement of criminal cases by involving perpetrators, victims, their families, and other related parties to collectively seek a fair resolution by emphasizing restoration rather than retribution. In this context, the Prosecutor's Office, as the Public Prosecutor, has the authority to dismiss a case in the interest of the law, which must be exercised responsibly and submitted hierarchically to the Head of the High Prosecutor's Office.

In its implementation, several requirements must be considered, including the interests of victims and other protected legal interests, the avoidance of negative stigma, the prevention of retaliation, community harmony, as well as propriety, morality, and public order. However, in practice, the application of restorative justice in domestic violence cases often creates new problems. One of them is the recurrence of the same offense, sometimes even more severe. Many perpetrators act manipulatively in hopes of reconciling with the victim, and many victims remain tied to the perpetrator due to emotional or intimate bonds.

Based on data from SIMFONI PPA (the Online Information System for the Protection of Women and Children) of the Ministry of Women's Empowerment and Child Protection, from January 1 to June 10, 2025, there were 11,513 reported cases of violence against women. Domestic environments accounted for the highest number of cases, totaling 7,046. With such high figures, the termination of prosecution based on restorative justice should indeed be applicable in handling domestic violence cases. Considering the significant number of violence cases against women, especially within households, the application of restorative justice becomes highly relevant not only emphasizing punishment but also victim recovery, perpetrator rehabilitation,

⁴ Anwar Rabbani, "Penyelesaian Tindak Pidana Kekerasan Dalam Rumah Tangga Dalam Perspektif Restorative Justice," *Al-Adl: Jurnal Hukum* 12, no. 2 (2021): 358–372.

⁵ Saptosih Ismiati, *Kekerasan Dalam Rumah Tangga (KDRT) Dan Hak Asasi Manusia (HAM) (Sebuah Kajian Yuridis)* (Deepublish, 2020), hlm. 4.

Termination of Prosecution Based on Restorative Justice in the Handling of Domestic Violence Crimes

and the restoration of social relationships. This approach is expected to reduce the recurrence of violence while providing a more humane sense of justice for all parties involved.

II. PROBLEM FORMULATION

The paradigm of criminal law enforcement in Indonesia is currently undergoing significant transformation, particularly with the strengthening of restorative justice as an alternative approach in resolving criminal cases. One of the legal innovations marking this development is the policy of terminating prosecution based on restorative justice, which is regulated through various internal regulations of the Prosecutor's Office as well as national legal policies.

Nevertheless, the application of restorative justice in the context of domestic violence (KDRT) remains subject to debate and presents unique challenges. On the one hand, restorative justice is viewed as providing a more humane space for resolution and promoting victim-centered recovery; on the other hand, the inherent nature of domestic violence as a crime rooted in power and gender relations raises concerns about potential violations of victims' rights.

This phenomenon highlights the emergence of a new field of inquiry, particularly regarding the extent to which restorative justice principles can be applied appropriately and fairly in domestic violence cases, as well as how law enforcement authorities address obstacles in its implementation. Based on this background, this study formulates two main research problems, namely: How is restorative justice applied in the termination of prosecution in domestic violence cases? The objective of this research is to analyze the application of restorative justice in the termination of prosecution in domestic violence cases.

III. RESEARCH METHOD

Legal research is a scientific activity that is methodological, systematic, and well-planned, aimed at analyzing legal phenomena and identifying solutions to emerging legal problems.⁶ The importance of a scientific approach, systematic reasoning, and a strong theoretical foundation is emphasized to produce valid, verifiable findings that contribute meaningfully to the development of legal scholarship and practice.⁷ A sound research process must adhere to scientific principles, employ appropriate methodologies, and be grounded in a logical and consistent framework of thought.

This research employs a normative legal research method, which focuses on examining and analyzing law as norms, rules, principles, doctrines, theories, and other relevant legal literature.⁸ The approaches used in this research are the statute approach, employed to examine the relevant regulatory framework, and the conceptual approach, which draws upon legal theories and doctrines. The nature of this research is prescriptive, meaning that it aims to provide concrete and applicable recommendations for addressing the legal issues under study by offering prescriptive analysis and arguments concerning legal conformity.

Data collection in this research was carried out through library research by gathering secondary data. The focus of data collection concerns criminal acts of domestic violence and policies related to the application of restorative justice. The sources of legal materials include primary legal materials such as the 1945 Constitution, the Criminal Procedure Code, the Law on the Elimination of Domestic Violence, the Law on the Protection of Witnesses and Victims, as well as regulations issued by the police, the Prosecutor's Office, and the Supreme Court concerning restorative justice. Secondary legal materials consist of research findings, legal writings, textbooks, and scholarly journals, while tertiary legal materials are obtained through internet-based sources.

The data analysis technique used in this study is qualitative analysis, which focuses on interpreting legal materials by providing a detailed and comprehensive description.⁹ The collected data will be analyzed systematically through the identification, classification, and interpretation of legal norms, doctrines, and court decisions. The objective is to draw logical and well-reasoned conclusions in accordance with the research problem formulation, thereby providing a comprehensive understanding of the issues under study.

IV. RESULTS AND DISCUSSION

The Application of Restorative Justice in the Termination of Prosecution in Domestic Violence Criminal Cases

Conventionally, violence is understood not only as physical acts that cause injury or harm, but also as situations in which an individual is influenced in such a way that they are unable to achieve their fullest potential, whether physically or psychologically. In this sense, violence occurs when a person's actual condition both physical and mental falls below the level of ability or ideal potential that they should be able to attain.

⁶ Peter Mahmud Marzuki, *Pengantar Ilmu Hukum* (Jakarta: Kencana, 2016), hlm. 145-150.

⁷ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2006), hlm. 78-82.

⁸ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: UI Press, 2000), hlm. 13-15.

⁹ Lexy J. Moleong, *Metodologi Penelitian Kualitatif* (Bandung: Remaja Rosdakarya, 2017), hlm. 6-10.

Termination of Prosecution Based on Restorative Justice in the Handling of Domestic Violence Crimes

Such influence may originate from another individual, a group, or a social system that restricts a person's freedom or opportunities for development. Thus, violence is not always direct or visibly apparent; it may occur subtly and systematically, particularly in the form of structural injustice that limits human growth and well-being.¹⁰

Contemporary criminal law reform no longer focuses solely on a retributive approach but has begun to shift toward a restorative approach. This development is based on the reality that resolving criminal cases through purely legal-formal mechanisms has not produced a significant impact on reducing crime rates in society. Moreover, the growing spirit of restorative justice within Indonesia's criminal justice system reflects a broader shift in the paradigm of punishment from one oriented toward retributive justice to one grounded in restorative justice. This shift is not merely theoretical; it also brings tangible implications for various elements of the criminal legal system. The change in paradigm influences the legal principles underpinning the justice system, the foundational concepts within criminal law, and the substantive content of criminal law itself. In addition, the implementation of restorative justice has affected the actual practice of the criminal justice system in society, whereby case resolution is no longer focused solely on punishing the offender but also considers the restoration of relationships between the offender, the victim, and the community. Thus, the spirit of restorative justice introduces a more humanistic and substantively just approach to criminal law enforcement.¹¹

In relation to this, Satjipto Rahardjo asserts that the resolution of criminal cases through the formal judicial system—which ultimately culminates in a court verdict constitutes a form of law enforcement that moves through a “slow track.” This is due to the lengthy processes that must be undertaken within the criminal justice system, beginning with investigation and inquiry by the police, prosecution by the Prosecutor's Office, and continuing through trial proceedings in the district court, the high court, and even up to the Supreme Court. This tiered procedural structure often results in significantly prolonged case resolution times. Consequently, case backlogs occur at various levels of the judiciary, which in turn further delay the attainment of justice for the parties involved and impose an increasing workload on law enforcement institutions. Although the legal system continues to operate, the reality is that criminal acts persist, and most cases continue to be resolved through rigid formal legal processes.¹²

This condition has far-reaching impacts, one of which is the overcrowding of correctional institutions.¹³ The number of inmates exceeding the facility's capacity has created various problems, including the disruption of rehabilitation functions and the increasing burden on the state budget. It is undeniable that overcrowding in correctional institutions requires substantial funding, both for operational needs and for fulfilling the rights of inmates. Therefore, a restorative approach serves as a more humane and efficient alternative in resolving criminal cases, as it focuses on repairing harm, achieving justice for victims, and ensuring offender accountability without necessarily resorting to punitive measures.¹⁴

Therefore, alternative approaches are needed in responding to criminal acts that occur within society. Crime prevention cannot be carried out solely through penal measures or legal mechanisms, but must also involve non-penal efforts approaches taken outside the criminal justice system. It is not sufficient to rely only on repressive actions (responses after a crime has occurred); preventive measures are also necessary to deter crime at an early stage. This is crucial because resolving criminal cases through strictly legal-formal channels does not always produce positive outcomes for law enforcement. In practice, criminal law enforcement which should ideally guarantee justice for society often results instead in various forms of injustice.

This issue is quite complex and is influenced by various factors not only economic factors, but also social and cultural factors that develop within society. The current criminal justice system remains oriented toward the criminal act (crime, *strafbaar feit*) and the offender (criminal, *dader*), in which each component of the system tends to adhere rigidly to formal, positivistic legal rules.¹⁵ This approach neglects the elements of utility and justice, which should serve as the core values of criminal law enforcement. As a result, the criminal justice process more often reflects a conflict between the interests of the state and the offender, without proportionately considering the rights of victims and the broader community. In the name of maintaining legal certainty, law enforcement officials tend to avoid taking risks in handling cases, and this reluctance frequently undermines the public's sense of justice, which is at the heart of the very purpose of the law itself.¹⁶

¹⁰ Abdul Aziz et al., “Pendekatan Keadilan Restoratif Dalam Penyelesaian Tindak Pidana Kekerasan Dalam Rumah Tangga,” *Al Ashriyyah* 9, no. 2 (2023): 99–112.

¹¹ Rena Yulia, “Restorative Justice Sebagai Alternatif Perlindungan Hukum Terhadap Korban Kekerasan Dalam Rumah Tangga,” *Jurnal Hukum dan Pembangunan* 39 (2009): 238–254.

¹² Henny Saida Flora, “Keadilan Restoratif Sebagai Alternatif Dalam Penyelesaian Tindak Pidana Dan Pengaruhnya Dalam Sistem Peradilan Pidana Di Indonesia,” *University Of Bengkulu Law Journal* 3, no. 2 (2018): 142–158.

¹³ Akbar Fitrian and Ali Muhammad, “Penerapan Metode Restorative Justice Dalam Penyelesaian Perkara Di Indonesia,” *Innovative: Journal Of Social Science Research* 1, no. 2 (2021): 243–249.

¹⁴ Ikama Dewi Setia Triana and Eti Mul Erowati, “Restorative Justice Sebagai Solusi Mengatasi Overkapasitas Lapas Di Indonesia,” *Jurnal Locus Delicti* 3, no. 2 (2022): 186–194.

¹⁵ Kadri Husin and Budi Rizki Husin, *Sistem Peradilan Pidana Di Indonesia* (Sinar Grafika, 2022).

¹⁶ Syamsul Fatoni, *Pembaharuan Sistem Pemidanaan: Perspektif Teoritis Dan Pragmatis Untuk Keadilan* (Setara Press, 2015).

Termination of Prosecution Based on Restorative Justice in the Handling of Domestic Violence Crimes

Restorative justice is the resolution of a criminal case by involving the offender, the victim, the families of both parties, and other relevant stakeholders in jointly seeking a fair settlement that emphasizes restoring the situation to its original state rather than imposing retribution. This concept means that restorative justice may be implemented at any stage of the criminal justice process including investigation and inquiry, prosecution, and court proceedings. Each of these stages is governed by binding regulations that outline the proper application of restorative justice.

In principle, restorative justice may be applied at any stage of the criminal justice system whether at the level of investigation, prosecution, or sentencing—so long as certain requirements are met. For the restorative justice process to be carried out properly and effectively, several conditions must be fulfilled. First, the offender must voluntarily acknowledge or admit their wrongdoing as a form of responsibility for their actions. Second, the victim must give consent for the case to be resolved outside the formal criminal justice system.¹⁷ Third, institutions vested with discretionary authority, such as the police or the prosecutor's office, must approve the implementation of restorative justice as an alternative means of resolving the case. Fourth, the out-of-court settlement process must receive support from the local community as part of the effort to rebuild social harmony and trust among citizens. When these conditions are fulfilled, restorative justice is expected to serve as a fair, efficient, and socially just solution for resolving criminal cases without having to go through lengthy and formal legal procedures.¹⁸

This approach requires active cooperation between the community and the government to create a harmonious environment, allowing conflicts arising from criminal acts to be resolved peacefully. Through a process of reconciliation, both the victim and the offender are encouraged to recognize their respective roles and responsibilities, as well as to address the harm resulting from the criminal act. The ultimate goal is to restore damaged social relationships and to foster a sense of security and justice within society. In restorative justice practice, victims are given the opportunity to gain a full understanding of the circumstances surrounding the offense committed against them, including the ability to directly question the offender or their family about details that remain unclear. Victims are also provided space to express feelings of discomfort and emotional trauma—not out of hatred, but with openness, empathy, and respect for the shared healing process. This approach not only helps restore the victim's condition but also encourages offenders to take responsibility and make amends in a constructive manner.¹⁹

The foundational concept of restorative justice is rooted in the principle of deliberation and consensus in resolving legal issues arising from a criminal act. This process emphasizes that all parties involved both the victim and their family, as well as the offender and their family consciously and voluntarily choose to settle the conflict through open and equal dialogue. During this deliberative process, the parties sit together, assisted by an independent and trusted third party, to seek a fair and mutually acceptable solution. The primary objective of this approach is not merely to punish the offender, but to repair the harm caused by the offense and restore the disrupted social relationships.²⁰ This is in line with John Braithwaite's view, which states that restorative justice aims to repair the harm caused by the offender and to build conciliation and reconciliation between the victim, the offender, and the community.²¹ This approach is believed to foster a sense of shame and personal responsibility, not only on the part of the offender but also within their family, thereby encouraging deeper and more sustainable behavioral reform. Thus, restorative justice becomes not only a mechanism for resolving cases but also a means of cultivating justice that is socially and morally meaningful.

Legal protection for victims of criminal acts can be provided in two forms: indirect (abstract) protection and direct (concrete) protection. Abstract protection essentially refers to forms of protection that have emotional or psychological effects on the victim. Examples include the sense of satisfaction or inner relief experienced when the victim feels that justice has been served, the offender has been punished, or the victim's voice has been acknowledged in the legal process. Meanwhile, concrete protection refers to protection that is tangible and directly felt by the victim. This type of protection includes material assistance such as financial compensation, coverage of living or educational expenses, and medical support. Additionally, concrete protection may also take non-material forms, such as guarantees of safety from further threats, protection from degrading physical or psychological suffering, and psychological counseling to support the victim's recovery. Both forms of protection are essential to

¹⁷ Candra Ulfatun Nisa and Nyoman Serikat Putra Jaya, "Penerapan Bentuk Mediasi Penal Dengan Pendekatan Keadilan Restoratif Dalam Sistem Peradilan Pidana Anak," *Jurnal Komunikasi Hukum (JKH)* 6, no. 1 (2020): 253–265.

¹⁸ I Made Tambir, "Pendekatan Restorative Justice Dalam Penyelesaian Tindak Pidana Di Tingkat Penyidikan," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 8, no. 4 (2019): 549–574.

¹⁹ Abdul Wahab, Suamsuddin Pasamai, and Nur Fadhillah Mappaselleng, "Penerapan Restoratif Justice Terhadap Kasus Kekerasan Dalam Rumah Tangga Di Makassar: Studi Di Polrestabes Makassar," *Journal of Lex Generalis (JLG)* 2, no. 3 (2021): 1440–1453.

²⁰ Revo Perkasa, J Jopie Gilalo, and Hidayat Rumatiga, "Penyelesaian Tindak Pidana KDRT Terhadap Perempuan Berdasarkan Keadilan Restoratif," *Karimah Tauhid* 3, no. 6 (2024): 6608–6618.

²¹ John Braithwaite, *Restorative Justice: Assessing an Immodest Theory and a Pessimistic Theory*, 1997.

Termination of Prosecution Based on Restorative Justice in the Handling of Domestic Violence Crimes

ensuring that victims' rights are recognized and fulfilled fairly, as well as to assisting victims in their post-crime recovery process.²²

In the concept of legal protection for crime victims, several important legal principles must receive special attention. This is because, within the context of criminal law, legal principles apply not only to substantive criminal law but must also inform procedural criminal law and the law governing the execution of criminal sanctions.²³ The first relevant principle is the principle of utility, which emphasizes that victim protection is not solely intended to provide personal benefits whether material or spiritual but also to generate broader positive impacts for society. In this regard, protecting victims is expected to contribute to reducing crime rates and fostering social order.

The next principle is the principle of justice, which requires that the protection afforded to victims take into account a comprehensive sense of justice, including justice for the offender. This means that efforts to restore the rights of victims should not be absolute or arbitrary, but must be proportional and still consider the fundamental rights of the offender within the criminal justice system. Furthermore, there is the principle of balance, which functions to restore the social conditions disrupted by the criminal act. The purpose of law is not only to provide certainty and protection but also to restore societal order to its prior state (*restitutio in integrum*), making this principle crucial in the context of restoring victims' rights.

Lastly, the principle of legal certainty serves as a fundamental foundation for law enforcement authorities in carrying out their duties, particularly when providing protection to victims. This principle ensures that every action taken by law enforcement is grounded in clear and accountable legal authority, thereby guaranteeing that victims receive lawful and non-discriminatory protection throughout the legal process. These four principles complement one another and form an essential foundation in shaping policies and implementing a fair and effective legal protection system for crime victims.²⁴

As stipulated in Prosecutor's Regulation Number 15 of 2020 on the Termination of Prosecution Based on Restorative Justice (Prosecutor's Regulation 15/2020), the termination of prosecution through restorative justice must be carried out in accordance with the principles of justice, public interest, proportionality, the use of criminal sanctions as a last resort, and procedures that are swift, simple, and low-cost. Accordingly, various requirements and regulations govern the application of restorative justice in handling criminal cases, including those related to the termination of prosecution in the interest of the law. This refers to circumstances such as the following:

1. The Public Prosecutor has the authority to close a case in the interest of the law.
2. The termination of a case in the interest of the law may be carried out in the following circumstances:
 - a. the defendant has passed away;
 - b. the criminal prosecution has expired due to the statute of limitations;
 - c. a court decision with permanent legal force has been issued against a person for the same case (*nebis in idem*);
 - d. the complaint in a complaint-based offense has been withdrawn or revoked; or
 - e. the case has been resolved outside of court (*afdoening buiten proces*). Such out-of-court settlement may be carried out provided that, for certain criminal offenses, the maximum statutory fine is voluntarily paid in accordance with applicable laws and regulations; or that the original condition has been restored through the application of a restorative justice approach.

Thus, the resolution of a case outside of court through a restorative justice approach may also result in the termination of prosecution. The termination of prosecution based on restorative justice is carried out responsibly by the Public Prosecutor and submitted hierarchically to the Head of the High Prosecutor's Office.

To prevent problems in its practical implementation, Prosecutor's Regulation 15/2020 also stipulates that the termination of prosecution based on Restorative Justice must take into account the following:

1. the interests of the Victim and other protected legal interests;
2. the avoidance of negative stigma;
3. the avoidance of retaliation;
4. community response and harmony; and
5. decency, morality, and public order.

Several important matters must also be taken into consideration in the termination of prosecution based on Restorative Justice, namely:

1. the subject, object, category, and penalty provisions of the criminal offense;
2. the background or circumstances leading to the commission of the criminal offense;
3. the degree of reprehensibility;

²² Hendrina Riupassa, Rambu Susanti Mila Maramba, and Rambu Hada Indah, "Kajian Hak Asasi Manusia Dalam Perlindungan Hukum Terhadap Korban Kekerasan Dalam Rumah Tangga," *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 2, no. 2 (2024): 58–66.

²³ Gosita Arif, "Masalah Korban Kejahatan, Akademika Pressindo" (Jakarta, 1993).

²⁴ Dikdik M Arief Mansur, "Urgensi Perlindungan Korban Kejahatan: Antara Norma Dan Realita" (2008).

Termination of Prosecution Based on Restorative Justice in the Handling of Domestic Violence Crimes

4. the harm or consequences resulting from the criminal offense;
5. the cost and benefit of handling the case;
6. the restoration of the original condition; and
7. the existence of reconciliation between the Victim and the Suspect.

Furthermore, a criminal case may be closed by operation of law and its prosecution terminated based on Restorative Justice if the following requirements are fulfilled:

1. the suspect is a first-time offender;
2. the offense is punishable only by a fine or by imprisonment of no more than five (5) years; and
3. the offense involves evidence value or financial loss resulting from the crime amounting to no more than Rp 2,500,000.00 (two million five hundred thousand rupiah).

For property-related criminal offenses, in cases where there are specific or case-based circumstances which, in the consideration of the Public Prosecutor and with the approval of the Head of the Subdistrict Prosecutor's Office or the Head of the District Prosecutor's Office, allow for the termination of prosecution based on restorative justice, such termination may be carried out while still observing the requirement that the suspect is a first-time offender, accompanied by at least one of the following conditions: that the offense is punishable only by a fine or by imprisonment of no more than five (5) years; or that the offense involves evidence value or financial loss resulting from the crime amounting to no more than Rp 2,500,000.00 (two million five hundred thousand rupiah).

For criminal offenses committed against a person, the body, life, or personal liberty, the requirement that the offense involves evidence value or financial loss amounting to no more than Rp 2,500,000.00 (two million five hundred thousand rupiah) may be exempted. In cases where the offense is committed due to negligence, the requirement that the offense is punishable only by a fine or by imprisonment of no more than five (5) years, or that the offense involves evidence value or financial loss of no more than Rp 2,500,000.00 (two million five hundred thousand rupiah), may also be exempted.

In addition to fulfilling the above-mentioned requirements and conditions, the termination of prosecution based on restorative justice shall also meet the following requirements:

1. there has been restoration to the original condition carried out by the Suspect by returning the goods obtained from the criminal act to the Victim; compensating the Victim's losses; reimbursing the costs arising from the consequences of the crime; and/or repairing the damage resulting from the crime;
2. there is a peace agreement between the Victim and the Suspect; and
3. the community responds positively.

If agreed upon by both the Victim and the Suspect, the requirement of restoring the original condition—whether by returning goods obtained from the criminal act to the Victim, compensating the Victim's losses, reimbursing costs arising from the consequences of the crime, and/or repairing the damage caused—may be exempted.

Pursuant to Article 5 paragraph (8) of Prosecutor's Regulation 15/2020, the termination of prosecution based on Restorative Justice is excluded for criminal acts against state security; the dignity of the President and Vice President; foreign states; foreign heads of state and their representatives; public order; and morality; offenses carrying a statutory minimum sentence; narcotics crimes; environmental crimes; and crimes committed by corporations.

Accordingly, based on Article 5 paragraph (8) of Prosecutor's Regulation 15/2020, domestic violence offenses may qualify for the termination of prosecution based on Restorative Justice.

A more detailed understanding of Domestic Violence (KDRT) can be found in Law Number 23 of 2004 on the Elimination of Domestic Violence (UU PKDRT). Article 1 point 1 of the Law defines Domestic Violence as any act against a person, particularly a woman, that results in physical, sexual, psychological suffering, and/or household neglect, including threats to commit such acts, coercion, or unlawful deprivation of liberty occurring within the household sphere.²⁵

Although women particularly wives and daughters are generally prioritized as victims, it is also possible for them to become perpetrators of domestic violence. This clarifies that men may likewise become victims of criminal acts, particularly domestic violence.

With regard to victims, they are individuals who experience violence and/or threats of violence within the household. The scope includes husbands, wives, and children; individuals who have family relations with the husband, wife, and children by blood, marriage, breastfeeding, caregiving, or guardianship and who reside in the household; and/or individuals who work to assist the household and reside in it. Such workers are regarded as members of the family for as long as they remain in the household.

²⁵ Andang Sari and Anggreany Haryani Putri, "Perlindungan Hukum Terhadap Perempuan Korban Kekerasan Dalam Rumah Tangga," *Krtha Bhayangkara* 14, no. 2 (2020): 236–245.

Termination of Prosecution Based on Restorative Justice in the Handling of Domestic Violence Crimes

Domestic violence must unquestionably be eliminated. Its objectives are to prevent all forms of domestic violence; protect victims of domestic violence; take action against perpetrators; and maintain the integrity of a harmonious and prosperous household.

The integrity and harmony of a happy, safe, peaceful, and tranquil household are the aspirations of every family. The Republic of Indonesia is a state based on the belief in the Almighty God, as guaranteed by Article 29 of the 1945 Constitution of the Republic of Indonesia. Accordingly, every person within the household must base the exercise of their rights and obligations on religious values. This must continually be nurtured to strengthen household unity. Realizing such integrity and harmony depends greatly on each individual within the household, particularly on the quality of their behavior and self-control. Household integrity may be disrupted when self-control and conduct are not properly maintained, eventually resulting in domestic violence and creating insecurity or injustice for individuals within the household.

The state views all forms of violence, especially domestic violence, as violations of human rights and crimes against human dignity as well as forms of discrimination. This perspective is based on Article 28 of the 1945 Constitution of the Republic of Indonesia and its amendments. Article 28G paragraph (1) stipulates that "Every person shall have the right to protection of their personal self, family, honor, dignity, and property under their control, and the right to feel secure and protected from the threat of fear to do or not do something that constitutes a human right." Article 28H paragraph (2) further states that "Every person shall have the right to receive facilities and special treatment to obtain equal opportunities and benefits in order to achieve equality and justice."

Furthermore, every person is prohibited from committing domestic violence against individuals within their household through physical violence; psychological violence; sexual violence; or household neglect. Physical violence refers to acts causing pain, illness, or serious injury. Psychological violence refers to acts causing fear, loss of self-confidence, loss of ability to act, despair, and/or severe psychological suffering. Sexual violence includes forced sexual intercourse committed against a person residing within the household, as well as forced sexual intercourse between a household member and another person for commercial or other specific purposes.

Every person is prohibited from neglecting individuals within their household when, under applicable law or agreement, they are obliged to provide life, care, or maintenance to such individuals. Neglect also applies to situations where a person causes economic dependency by restricting and/or prohibiting victims from obtaining proper employment inside or outside the home, resulting in the victim being under the perpetrator's control.

To determine which types of domestic violence cases may qualify for the termination of prosecution based on Restorative Justice, it is necessary to outline the following provisions:

No.	Article	Content of Article	Notes
1	Article 44		
	paragraph (1)	Any person who commits physical violence within the household as referred to in Article 5 letter a shall be punished with imprisonment of up to 5 (five) years or a fine of up to Rp 15,000,000.00 (fifteen million rupiah).	
	paragraph (2)	If the act as referred to in paragraph (1) results in the victim suffering illness or serious injury, the offender shall be punished with imprisonment of up to 10 (ten) years or a fine of up to Rp 30,000,000.00 (thirty million rupiah).	
	paragraph (3)	If the act as referred to in paragraph (2) results in the death of the victim, the offender shall be punished with imprisonment of up to 15 (fifteen) years or a fine of up to Rp 45,000,000.00 (forty-five million rupiah).	
	paragraph (4)	If the act as referred to in paragraph (1) is committed by a husband against his wife or vice versa and does not cause illness or hinder the victim from performing work, duties, livelihood, or daily activities, the offender shall be punished with imprisonment of up to 4 (four) months or a fine of up to Rp 5,000,000.00 (five million rupiah).	Based on Article 51 of the Domestic Violence Law, the criminal act of physical violence as referred to in Article 44 paragraph (4) constitutes a complaint-based offense.
2	Article 45		
	paragraph (1)	Any person who commits psychological violence	

Termination of Prosecution Based on Restorative Justice in the Handling of Domestic Violence Crimes

		within the household as referred to in Article 5 letter b shall be punished with imprisonment of up to 3 (three) years or a fine of up to Rp 9,000,000.00 (nine million rupiah).	
	paragraph (2)	If the act as referred to in paragraph (1) is committed by a husband against his wife or vice versa and does not cause illness or hinder the victim from performing work, livelihood, or daily activities, the offender shall be punished with imprisonment of up to 4 (four) months or a fine of up to Rp 3,000,000.00 (three million rupiah).	Based on Article 52 of the Domestic Violence Law, the criminal act of psychological violence as referred to in Article 45 paragraph (2) constitutes a complaint-based offense
3	Article 46	Any person who commits sexual violence as referred to in Article 8 letter a shall be punished with imprisonment of up to 12 (twelve) years or a fine of up to Rp 36,000,000.00 (thirty-six million rupiah).	Based on Article 53 of the Domestic Violence Law, the criminal act of sexual violence as referred to in Article 46, when committed by a husband against his wife or vice versa, constitutes a complaint-based offense
4	Article 47	Any person who forces an individual residing within their household to engage in sexual intercourse as referred to in Article 8 letter b shall be punished with imprisonment of not less than 4 (four) years and not more than 15 (fifteen) years, or with a fine of not less than Rp 12,000,000.00 (twelve million rupiah) and not more than Rp 300,000,000.00 (three hundred million rupiah).	
5	Article 48	If the acts referred to in Articles 46 and 47 result in the victim suffering injuries that are incurable, experiencing cognitive or psychological impairment for at least 4 (four) consecutive weeks or 1 (one) non-consecutive year, the miscarriage or death of a fetus, or the loss of reproductive function, the offender shall be punished with imprisonment of not less than 5 (five) years and not more than 20 (twenty) years, or with a fine of not less than Rp 25,000,000.00 (twenty-five million rupiah) and not more than Rp 500,000,000.00 (five hundred million rupiah).	
6	Article 49	Any person shall be punished with imprisonment of up to 3 (three) years or a fine of up to Rp 15,000,000.00 (fifteen million rupiah) if they: a. neglect another person within their household as referred to in Article 9 paragraph (1); b. neglect another person as referred to in Article 9 paragraph (2).	
7	Article 50	In addition to the penalties referred to in this Chapter, the court may impose additional sanctions in the form of: a. restrictions on the offender's movement, whether aimed at distancing the offender from the victim for a certain distance and duration, or limiting certain rights of the offender; b. an order requiring the offender to participate in a counseling program under the supervision of a designated institution.	

Termination of Prosecution Based on Restorative Justice in the Handling of Domestic Violence Crimes

The restorative justice approach in resolving domestic violence (KDRT) cases provides broader opportunities for all parties involved to actively participate in the settlement process. Through this approach, both the victim and the offender are given proportional opportunities to directly express their views, feelings, and demands. For victims, restorative justice creates space to openly articulate their needs and expectations to the offender. In the conventional criminal justice system, victims are often positioned merely as witnesses whose statements are required for evidentiary purposes, while their aspirations and hopes for the resolution of the case are frequently not adequately accommodated because they are represented solely by the public prosecutor.

Conversely, under the restorative approach, offenders are also given space to consciously and responsibly express their views, acknowledge wrongdoing, and convey remorse for their actions. Furthermore, offenders are encouraged to compensate for the harm caused as part of the victim's recovery process. Thus, restorative justice not only offers a more equitable and humane legal resolution but also fosters the restoration of social relations between offenders and victims, particularly within the household context, which is highly vulnerable to repeated conflict.

In principle, the termination of prosecution based on Restorative Justice may indeed be applied in domestic violence cases. However, its implementation must strictly adhere to the requirements stipulated in prevailing laws and regulations, including those outlined in Prosecutor's Regulation 15/2020.

In applying restorative justice to domestic violence cases, the outcomes focus on victim recovery, offender accountability, and the restoration of social relationships, rather than merely imposing criminal sanctions. For example, the Jenepono District Prosecutor's Office successfully resolved a case through restorative justice involving a suspect named Nurbaeti, who was alleged to have violated Article 44(1) of Law Number 23 of 2004 concerning the Elimination of Domestic Violence. In this case, the offender and the victim engaged in mediation facilitated by the prosecutor, resulting in a peaceful agreement without proceeding to formal judicial processes.

The outcomes of restorative justice in domestic violence cases encompass several important aspects:

1. Victim recovery, wherein the victim receives acknowledgment of the harm suffered, psychological support, and a sense of safety.
2. Offender accountability, wherein the offender voluntarily admits wrongdoing, apologizes, and commits not to repeat the act.
3. Mutual agreement between the victim and offender, which may include the restoration of the victim's rights, compensation, or concrete actions taken by the offender to repair the harm caused.
4. Restoration of social relations, wherein family members, the community, and traditional or community leaders are involved to help rebuild household harmony and the surrounding social environment.
5. Documentation and recommendations, wherein the results of the restorative justice mediation are recorded as part of the legal record, and the prosecutor may issue recommendations for further legal measures if the offender fails to comply with the agreement.

Thus, restorative justice in domestic violence cases aims to produce a fair and sustainable resolution by prioritizing victim recovery, offender responsibility, and the establishment of social harmony, rather than focusing solely on imposing criminal penalties.

CONCLUSIONS

Based on Prosecutor's Regulation Number 15 of 2020, the termination of prosecution through a restorative justice approach may be applied in domestic violence (KDRT) cases as long as the established requirements are fulfilled, which essentially demand the existence of a voluntary and non-coercive peace agreement and the provision of restitution or recovery for the victim. This must be carried out while still adhering to other applicable laws and regulations, including Law Number 23 of 2004 on the Elimination of Domestic Violence (PKDRT). Although domestic violence is classified as a serious crime closely linked to power relations, the regulation provides an opportunity for public prosecutors to refrain from bringing the case to court if the offender has acknowledged their wrongdoing, has no prior criminal record, and has provided compensation or other forms of reparation for the harm suffered by the victim. In this way, the regulation offers a middle ground between formal law enforcement and a more humane method of dispute resolution, provided that the process genuinely ensures the victim's safety and substantive justice.

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