

The Effectiveness of the Attorney General Regulation No. 15 Of 2020 on the Right to Reparation for Victims at the Central Java High Prosecutor's Office



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ABSTRACT: Restorative justice is alternative settlement case crimes involving victims and perpetrators, with drip focus on recovery returns to its original victim state, dimensions justice in theory. This related justice for the victims, the Attorney General's Office of the Republic of Indonesia made breakthrough. For termination prosecution based on Restorative justice, but in Regulation Prosecutor's Office Republic of Indonesia is located phrase. Where in matter in a few cattles between the victim and the perpetrator recovery to condition again owned by the victim can put aside matter. This A little contradictory with restorative justice theory, research. This aiming For see implementation termination prosecution based on PERJA, and its effectiveness to recovery right victim reparation. Research. This use type study legal empirical with primary data obtained from results interviews and observations at the prosecutor's office tall Central Java

KEYWORDS: Restorative Justice, Alternative Case Settlement, Victims and Perpetrators, Victim Recovery

I. INTRODUCTION

Enforcement law Criminal in Indonesia generally through a number of stages at the start from investigation, inquiry, prosecution, and trial. Satjipto own opinion that enforcement law through mechanism the Which will end on verdict court is something enforcement law which leads to slow path where will happen accumulation matters at the level court ¹

Authority in there is no one there prosecution is authority from The Attorney General's Office of the Republic of Indonesia as operate power country in field prosecution, prosecution Alone is action prosecutor general For bestow case to Court Competent State For deep in thought and tried in the process of transfer yes Alone The prosecutor's office researching to s file case criminal whether to case the Already fulfil condition Good formal And material For delegated to Court Which authorized.

The imposition of criminal penalties between one perpetrator and another in cases that are relatively similar sometimes becomes a controversy in society due to disparities in sentencing. This raises the question of whether the punishment given by judges has fulfilled the sense of justice, often referred to as a "disturbing issue."² As a result, justice through litigation is considered not yet fully achieved.

The dynamic nature of legal phenomena has led to the emergence of new ideas and studies, particularly in criminal law. The purpose of criminal law has now shifted toward a new paradigm, moving away from the classical theory that was oriented toward retributive justice where justice served as a justification for punishment, based on the principle of *lex talionis* or the law of retaliation. This shift is directed toward modern criminal law, which focuses more on corrective, restorative, and rehabilitative justice.

The resolution of a criminal case outside the Indonesian Criminal Procedure Code (*KUHAP*) through reconciliation has been implemented in several regions of Indonesia using customary law practices within local communities. Reconciliation through deliberation in the criminal justice system is referred to as **restorative justice**, which is understood as an alternative method of resolving criminal cases by involving the offender, the victim, the families of both parties, and other relevant stakeholders to seek a fair resolution—focusing on restoring the original condition rather than seeking retribution.

Restorative justice is an alternative approach to case resolution in criminal law that involves the offender, the victim, the families of both parties, and other related parties, with a primary focus on restoring the original state rather than seeking

¹ Rahardjo, S. *Sisi-Sisi Lain dari Hukum di Indonesia*. Jakarta• Kompas. 2003 hlm 107

² Muladi. *Kapita Selekta Sistem Peradilan Pidana*. Semarang• Badan Penerbit Universitas Diponegoro. 1995 hlm 80

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retribution.³ The dimension of restoration here refers to the recovery of the sociological relationship between the victim and the offender, as well as compensation for the damage caused by the offender's actions, as a form of justice for the victim.⁴

The Attorney General Regulation No. 15 of 2020 on the termination of prosecution based on restorative justice was established as an alternative method for resolving criminal cases, with the primary goal of restoring the victim's original condition through the right to reparation (compensation). This process prioritizes dialogue and mediation between the victim and the offender, with the prosecutor acting as a facilitator by bringing together all relevant parties, including the victim, the offender, their families, and community leaders.

This approach provides space for offenders to take responsibility for the victim's condition while giving victims the opportunity to achieve the justice they seek. Additionally, the Indonesian Criminal Procedure Code (*KUHAP*) also regulates the right to reparation for victims in Articles 98 to 101, which allow victims to seek compensation by combining a civil claim for damages with the main criminal case—a process that can be initiated when the case reaches the adjudication stage.

In the context of prosecution termination based on restorative justice, the process of resolving criminal cases is expedited while providing space for victims' right to reparation as one of the conditions for termination. However, Article 5 (7) states that if both the victim and the suspect agree, the requirement for restoring the original condition, as outlined in Article 5(6), can be waived.

This raises concerns regarding the core objective of **restorative justice**, which is to resolve cases by involving all relevant parties and prioritizing the victim's recovery to their original state. If the requirement for reparation can be set aside through mutual agreement, it risks deviating from the fundamental principle of restorative justice—restoring the victim's condition rather than merely facilitating an agreement between the parties.

II. RESEARCH METHODS

This research employs an Empirical Juridica research type with a qualitative approach. The qualitative approach in empirical juridical research focuses on natural phenomena⁵, aiming to interpret the existing occurrences within a specific context. The data collection method in this research involves gathering information within a particular setting to interpret the observed phenomena. The researcher acts as the key instrument in this process, while data validity is ensured through data triangulation, which compares information from multiple sources to test its reliability.

The sources of data in this research consist of primary and secondary data. Primary data is obtained through interviews with the Head of OHARDA (Serious Crimes) at the Central Java High Prosecutor's Office and functional prosecutors at the Semarang District Prosecutor's Office. Meanwhile, secondary data is collected from primary legal materials and secondary legal materials. Once the data is collected, data reduction is carried out to categorize the information based on its type. The processed data is then presented in a qualitative descriptive format. Finally, the analyzed data is compared with existing theories and expert opinions to draw conclusions.

III. RESULTS AND DISCUSSION

A. The Implementation of Prosecution Termination Based on Restorative Justice in Upholding Victims' Right to Reparation at the Central Java High Prosecutor's Office.

The implementation of peace in PERJA Number 15 of 2020 is limited by several times, including those related to the peace process and the fulfillment of obligations carried out within 14 days after the transfer of responsibility for the suspect and evidence, in the event that peace is achieved, the Head of the District Attorney's Office requests approval from the Head of the High Prosecutor's Office to terminate the prosecution with a maximum period of one day since the peace process was achieved, then the Head of the High Prosecutor's Office determines the attitude of approving or rejecting with a consideration of a period of 3 days, after the Head of the High Prosecutor's Office provides an attitude, the Head of the District Attorney's Office carries out the Determination of Termination of Prosecution no later than 2 (two) days since the approval is received.

The Central Java High Prosecutor's Office successfully terminated prosecution in 13 cases between 2020 and 2021, including several cases within the jurisdiction of the Semarang District Prosecutor's Office. This research presents and analyzes the implementation of these prosecution terminations to assess their compliance with Attorney General Regulation No. 15 of 2020 concerning Prosecution Termination Based on Restorative Justice.

Case Background:

On Wednesday, August 19, 2021, the suspect, EBP, committed a criminal act of assault against the victim, SAM, by slashing the victim's left thigh once with a sharp weapon, specifically a dagger/short sword, causing a laceration on the victim's left thigh.

³ Hiariej, Eddy. *Prinsip-Prinsip Hukum Pidana (Edisi Revisi)*. Yogyakarta: Cahaya Atma. 2018 hlm45

⁴ Sukardi. *RESTORATIVE JUSTICE Dalam Penegakan Hukum Pidana Indonesia*. Jakarta: Raja Grafindo. 2020 hlm 35

⁵ Yilianto, M. F.. *Dualisme Penelitian Hukum Normatif dan Empiris* Yogyakarta: Pustaka Pelajar 2015 hlm 51

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The act was motivated by the suspect's irritation and jealousy after learning that the victim had given a mango to the suspect's wife, N, who was also the victim's co-worker. Upon discovering this, the suspect went to PT. Wiwan Sukses Abadi, the workplace shared by the suspect, his wife, and the victim. After encountering the victim in the warehouse, the suspect drew the sharp weapon he had brought with him. Realizing the threat, the victim tried to escape but fell in front of the company building. At that moment, the suspect slashed the victim's left thigh once, resulting in the injury.

The requirements for implementation were met in this case, as the suspect had committed a crime for the first time, and the offense is punishable by a maximum imprisonment of five years Article 351 (2) of the Indonesian Penal Code). During the mediation process, a peace agreement was reached between the victim (SAM) and the suspect (EBP), which was attended by the victim, the suspect, and community leaders. The agreement includes the following terms: The first party (suspect) agreed to write a letter of apology and a written statement promising not to repeat the offense. The first party also agreed to provide compensation for the material and immaterial losses suffered by the victim, amounting to IDR 20,000,000.00 (twenty million rupiah).

The implementation of the reconciliation process and the termination of prosecution in the case of EBP, who committed the criminal act of assault, yielded positive results. However, there were discrepancies between the actual timeline of the implementation and the timeframe stipulated in the Attorney General Regulation (PERJA). The reconciliation process was conducted on October 20, 2022. After reaching a peace agreement, the Public Prosecutor prepared an official report and a memorandum of opinion, which were subsequently submitted through the official reporting hierarchy.

The Public Prosecutor reported the case to the Head of the Semarang District Prosecutor's Office, who then forwarded the report to the Head of the Central Java High Prosecutor's Office. On October 22, 2021, the Head of the Semarang District Prosecutor's Office submitted a request for prosecution termination based on restorative justice on behalf of the suspect, EBP, to the Head of the Central Java High Prosecutor's Office. In response, the Central Java High Prosecutor's Office issued a reply stating that the administrative requirements for the prosecution termination request were incomplete and needed to be corrected and completed.

The lack of completeness includes being accompanied by a Letter of Order from the Head of the District Attorney's Office to order the Facilitator Prosecutor, a letter of summons for peace efforts, a letter of minutes of the peace process, a letter of minutes of the implementation of peace, a photo of the receipt of the condolence fee, and photo documentation of the implementation of peace.

The Semarang District Attorney's Office sent administrative documents in the form of a Letter of Order from the Head of the District Attorney's Office to order the Facilitator Prosecutor, a letter of summons for peace efforts, a letter of minutes of the peace process, a photo of the receipt of the condolence fee, and photo documentation of the implementation of the peace on October 26, 2021.

The Central Java High Prosecutor's Office requested the missing minutes of the peace implementation to be completed as a consideration for the Head of the Central Java High Prosecutor's Office. The Semarang District Prosecutor's Office sent the completed minutes of the peace implementation on October 28, 2021. The Central Java High Prosecutor's Office then issued an approval letter to the Head of the Semarang District Prosecutor's Office regarding the application of case dismissal based on restorative justice on October 28, 2021. Following this letter, the Head of the Semarang District Prosecutor's Office issued a case dismissal decision on October 29, 2021. Based on this decision, on November 1, 2021, the Semarang District Prosecutor's Office issued a notification letter informing that the prosecution of the case involving EBP had been dismissed based on restorative justice. This notification was sent to the Central Java High Prosecutor's Office, the Chief Judge of the Semarang District Court, the suspect EBP, and the victim SAM. Below is a comparison table presenting the content of the regulations alongside the actual facts observed in the field.

Number	Article	Facts and Administrative Flow	Date	Explanation
A.	Article 5 Paragraph (1)	A new suspect who commits a criminal act for the first time is only subject to a prison sentence of 5 (five) years (Article 351, Paragraph (2) of the Indonesian Criminal Code)	-	Has complied
B.	Article 5, Paragraph (6)	The victim and the suspect have reached a settlement before the Prosecutor as a Facilitator. As part of the agreement, the suspect has agreed to restore the victim's condition by providing compensation amounting to Rp. 20,000,000.00.	-	Has complied

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C.	Article 9, Paragraph (5)	"The implementation of Restorative Justice is carried out within two days from the case transfer/Stage 2.	22 October 2021	Has complied
D.	Article 12, Paragraph (3)	Kepala Kejaksaan Negeri Kota Semarang mengirimkan Surat Permintaan Penghentian penuntutan berdasarkan keadilan restoratif kepada Kejaksaan Tinggi Jawa Tengah	22 October 2021	Has complied
E.	Article 12, Paragraph (4)	Reply Letter from the Central Java High Prosecutor's Office to the Head of the Semarang City District Prosecutor's Office to complete the additional administrative requirements	26 October 2021	The Head of the Central Java High Prosecutor's Office is unable to take a stance to approve or reject due to deficiencies in the administrative requirements
F.	-	The Semarang District Prosecutor's Office sent the complete administrative documents	28 October 2021	The Head of the Central Java High Prosecutor's Office is unable to take a stance to approve or reject due to deficiencies in the administrative requirements, specifically the Minutes of the Peace Agreement implementation
G.	-	Approval Letter from the Head of the High Prosecutor's Office Regarding the Termination of Prosecution Based on Restorative Justice	28 October 2021	Has complied
H.	Article 12, Paragraph (4)	Decree of the Head of the Semarang City Prosecutor's Office Regarding the Termination of Prosecution Based on Restorative Justice.	29 October 2021	The Head of the Central Java High Prosecutor's Office approves the Termination of Prosecution based on Restorative Justice within 7 days after the complete documents are received.

Based on the comparison between the regulations in Perja and the factual process of case resolution through restorative justice-based prosecution termination, it can be concluded that the implementation in the case of the suspect EBP has been in accordance with Perja. However, in practice, there are obstacles, such as a lack of supporting administrative documents, which prevent the Head of the Central Java High Prosecutor's Office from determining a stance on the prosecution termination request submitted by the Head of the Semarang City District Prosecutor's Office.

I. Implementation of the Restoration of Victims' Right to Reparation in Prosecution Termination Based on Restorative Justice

Restoration in the theory of restorative justice encompasses several dimensions, including the recovery of the relationship between the victim and the offender. Restoration or healing can also be understood as the recovery of the victim's losses or the damage caused by the offender's actions. Justice in this context is represented as individual justice, namely the justice of the victim. Restorative justice is based on fundamental principles, including viewing crime as a symptom of social actions rather than a violation of criminal law. Furthermore, it perceives crime not as an offense against the state but as an act of wrongdoing against an individual or society. It also recognizes that the impact of criminal acts causes harm to individuals and the community.⁶ The Semarang City District Attorney's Office has successfully implemented case prosecution termination based on restorative justice. The researcher will present the prosecution termination process facilitated by Gilang Prama Jasa, S.H., M.H., as a Public Prosecutor at the Semarang District Attorney's Office in an assault case. Furthermore, this study will analyze the implementation of victim reparation rights restoration in accordance with the Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 on the Termination of Prosecution Based on Restorative Justice.

⁶ Wijayanto, C. W. Restorative Justice For Victims Of Violence Against Women Gender Based. Jurnal Dinamika Hukum hlm 85.

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Case Position: On Wednesday, October 14, 2020, at approximately 16:00 WIB, at the Semarang City Satpol PP Office, Jl. Ronggolawe No. 10, Semarang, the suspect, JAH, committed an act of assault against the victim, DS. The assault was carried out by spitting on the victim's face twice, kicking the victim's leg three times, slapping the left cheek once, pushing the victim's chest, causing the victim to fall on their back, and stepping on the victim's genital area. The incident occurred because the victim did not respond to the suspect's WhatsApp message, prompting the suspect to confront the victim at their workplace. The suspect threw a biscuit tin at the victim but missed. The victim ran into the Head of Division's office and sat inside, but the suspect suddenly entered the room and kicked the victim's left leg once before grabbing the victim's shirt collar. The victim attempted to escape, but as they stood up, the suspect forcefully pushed their chest more than once, causing the victim to fall forward. When the victim tried to stand up, the suspect pushed them again, making them fall onto their back. While the victim was lying on their back, the suspect stepped on the victim's genital area twice with their foot while verbally insulting them. When the victim stood up, the suspect pushed their neck against the wall using their forearm, causing the victim to cough and vomit bloodstained fluid. Based on the Visum et Repertum Report No. 1103/RSPWDC/PM/RM/XI/2020 dated November 16, 2020, the medical examination revealed a bluish bruise on the middle upper right arm, caused by a blunt object.

The peace agreement between the suspect, JAH, as the first party, and the victim, DS, as the second party, has been reached. As part of the agreement, the suspect agrees to issue a written apology letter and a statement promising not to repeat the same actions. Additionally, the suspect will return a 3.6-gram gold ring to the victim and refrain from following any of the victim's social media accounts. Furthermore, the suspect commits to not disturbing the victim's comfort, including interfering in their personal life, making threats, or stalking. The suspect also agrees not to spread false accusations about the victim and their family. Lastly, the suspect has pledged to provide compensation covering medical expenses at Cito and Citarum Hospitals, along with other costs, totaling IDR 7,500,000.

The implementation of the restoration of the victim's right to reparations in the case involving the perpetrator, JAH, and the victim, DS, has yielded positive results and was carried out in accordance with the applicable regulations. The reconciliation and restoration process took place simultaneously during Phase 2, which is the handover of the suspect's case file and evidence from the investigator to the prosecutor on January 13, 2022. This was conducted in compliance with Article 9, Paragraph (5) and within the 14-day time limit. Additionally, the requirements of Article 5, Paragraph (6) were fulfilled, ensuring that the restoration efforts by the suspect, including compensation, were appropriately addressed. A peace agreement was reached in conjunction with the case handover.

The restoration process aimed at returning the victim to their original state, based on the principles of restorative justice, resulted in an agreement on compensation for medical expenses amounting to IDR 7,500,000, the return of a gold ring, and the suspect's commitment to refrain from following the victim on social media. These measures are part of the reparative efforts ensuring the victim's rights are upheld. The recovery process took place following mediation, during which both parties reached a mutual agreement. This process was grounded in the core principles of restorative justice, allowing the victim to engage in direct dialogue with the suspect. Meanwhile, community figures played a role in monitoring and ensuring the proper implementation of the agreed-upon resolution.

The benefits of implementing the termination of prosecution in this case, particularly for the victim, DS, include the restoration of comfort and recovery through compensation. This process was carried out immediately on January 13, 2022, during the mediation session. Although the Prosecutor's Regulation No. 15 of 2022 on Termination of Prosecution Based on Restorative Justice grants the suspect up to 14 days to fulfill their obligations after the transfer of responsibility for the suspect and evidence, the research interview revealed that the prosecutor, as the facilitator, must ensure that the suspect fulfills their obligations. In the case of JAH and DS, the obligation in the form of compensation was fulfilled immediately after the mediation process was completed.

II. The Effectiveness of Prosecution Termination Based on Restorative Justice at the Central Java High Prosecutor's Office

The dimension of restoring the victim's original condition in this study is used as a parameter to analyze whether effectiveness is achieved or not. The recovery dimension in question relates to the restitution of the victim's losses or the damage caused by the perpetrator. Restitution here refers to reparation, which involves restoring certain aspects related to the rightful owner, and compensation in the form of financial reimbursement that must be made by the person responsible for the damage. Another parameter is related to the objective of restorative justice theory itself, in which the perpetrator becomes aware of their wrongdoing and refrains from repeating their actions.

The Central Java High Prosecutor's Office handled a total of 13 cases, of which 6 cases successfully resulted in restitution. These cases were handled by the District Attorney's Offices (Kejari) of Purbalingga, Banyumas, Tegal Regency, Salatiga, Grobogan, and Semarang City, where most forms of restitution were carried out through compensation and reparation.

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Meanwhile, for the 7 cases where prosecution was discontinued in the District Attorney's Offices of Pemalang, Rembang, Jepara, Kudus, and Cilacap, no compensation or reparation was conducted.

The researcher assesses that in the process of case resolution through prosecution termination based on restorative justice, several factors contribute to its successful implementation. These factors include the victim's forgiveness of the perpetrator's actions, the emotional closeness between the victim and the perpetrator, the perpetrator's awareness of their wrongdoing, efforts by the perpetrator to restore/restitute the victim's losses, and the acceptance of the reconciliation by the community through the involvement of community leaders. This aligns with Soekanto's theory of legal effectiveness, which includes several factors as benchmarks for legal effectiveness, one of which is the cultural factor. The local wisdom of the community plays a role in determining whether a resolution aligns with these values. It would be difficult to achieve success without involving community leaders who understand the existing local wisdom.

The next factor relates to the legal aspect, where the regulations are sufficiently synchronized both hierarchically and horizontally. The implementation basis of the Regulation of the Attorney General of the Republic of Indonesia No. 15 of 2020 on the Termination of Prosecution Based on Restorative Justice is aligned with the closure of cases in the interest of justice, as stipulated in Chapter II. This aligns with the Indonesian Criminal Procedure Code (KUHP), which grants prosecutors the right to terminate prosecution based on legal grounds, as stated in Article 140, Paragraph 2, Point (a). The interpretation of "in the interest of justice" refers to serving the objectives of the law. Another indicator is whether the requirements align with existing juridical provisions. Referring to Law No. 16 of 2004 on the Attorney General's Office of the Republic of Indonesia, Article 35, Point (a) states that the Attorney General has the authority to determine and formulate policies on law enforcement and justice within the scope of the prosecutor's office's duties and powers. Therefore, the Attorney General's Regulation No. 15 of 2020 is part of an effort to establish law enforcement policies.

The law enforcement factor in this context refers to the need for competent personnel to effectively carry out their duties. Several aspects are considered, including the extent to which officers adhere to existing regulations and the limits of their discretion. Based on an interview with the Head of OHARDA at the Central Java High Prosecutor's Office, the researcher concluded that the discretion available varies among prosecutors, who act as facilitators by using their conscience in decision-making.

IV. CONCLUSION

The implementation of prosecution termination at the Central Java High Prosecutor's Office for the case of the suspect EBP has been in accordance with the Prosecutor's Regulation (Perja). However, in practice, there are obstacles, such as a lack of supporting administrative documents, which are necessary for the Head of the Central Java High Prosecutor's Office to make a decision regarding the prosecution termination request submitted by the Head of the Semarang City District Attorney's Office.

The effectiveness of prosecution termination at the Central Java High Prosecutor's Office can be considered effective when viewed from the objectives of law enforcement and criminal punishment. The goal of restorative justice theory is to provide more space for victims to determine the form of justice they seek through mediation. The dimension of justice for victims is realized through compensation for their losses, while perpetrators acknowledge their wrongdoing and do not reoffend, thereby creating a deterrent effect in line with the objectives of criminal punishment. The legal objective achieved is utility, where the benefit for the victim lies in the restitution of losses, treatment, or restoration to their original condition. Several factors influence effectiveness, including legal factors, cultural factors, law enforcement officers, and facilities.

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