



Fakultas Hukum Universitas Riau, Jalan Pattimura Nomor 9 Gobah, Kel. Cinta Raja, Kec. Sail, Pekanbaru, Riau,
Kode Pos 28127. Telp: (+62761)-22539, Fax : (+62761)-21695
E-mail: melayunesialaw@lecturer.unri.ac.id
Website: <https://myl.ejournal.unri.ac.id>

The Application of Restorative Justice in View From Republic Of Indonesia Prosecutor's Regulations Number 15 of 2020 Against Termination of Prosecution in The Legal Territory of The Riau High Court

Gina Olivia ^a

^a Pelalawan District Attorney, Indonesia, Email: oliviaginza@gmail.com

Article Info

Article History:

Received : 18-07-2021

Revised : 22-04-2022

Accepted : 10-06-2022

Published : 30-06-2022

Keywords:

Restorative Justice

Criminal

Prosecutor's

Abstract

The concept of restorative justice is a critique of the concept of the criminal justice system which sees crime as a violation of state rules. Law Enforcement Officials have different perspectives regarding the termination of prosecution of cases that have been resolved based on restorative justice, where the perspective of Law Enforcement Officials themselves is not in line with the intent of the Republic of Indonesia Prosecutor's Regulation Number 15 of 2020 itself. There are still double standards in the application of Restorative Justice as referred to in the Regulation of the Prosecutor's Office of the Republic of Indonesia Number 15 of 2020. It should be when the perpetrator and the victim have made peace based on restorative justice, namely restoration back to its original state. The position of the Law Enforcement Apparatus is only to declare what has been agreed upon by the Victim and Perpetrator so that the termination of prosecution based on Restorative Justice can be achieved. This study uses a juridical sociological method to analyze the problem. Researchers found there are differences of opinion in understanding the Instructions for the Implementation of the Prosecutor's Regulation concerning Termination of Prosecution Based on Restorative Justice. Concepts and Efforts to Overcome Internal Problems Application of Restorative Justice to Termination of Prosecution in the Legal Area of the Riau High Prosecutor's Office It has been running as the regulation was issued to promote justice in the community.

INTRODUCTION

The State of Indonesia is a legal state based on Pancasila and the 1945 Constitution which is rooted in reforms,¹ this is stated in Article 1 paragraph (3) of the 1945 Constitution. This means that the Republic of Indonesia is a democratic legal state, upholds human rights, and guarantees that all citizens are equal before the law and government and are obliged to uphold the law and government with no exception.²

¹Mexasai Indra, "Urgency of Judicial Review of the Constitution on the Constitution by the Constitutional Court," *Journal of the Constitution* 4, no. 1 (2001), 1.

² Evi Hartanti, *Corruption Crimes*, (Jakarta: Sinar Grafika, 2006), 9.

In the formation of a legal regulation based on the Act has the aim of order, justice, and legal certainty. In criminal procedural law, it has a purpose, namely that it can be read on: guide lines_implementation of the Criminal Procedure Code issued by the Minister of Justice. The purpose of the criminal procedure law is to seek and obtain or at least approach the material truth, namely the complete truth of a criminal case by applying the provisions of the criminal procedure law honestly and accurately with the aim of finding out who the perpetrators can be charged with violating the law. , and then requesting an examination and decision from the court to find out whether it is proven that a criminal act has been committed and whether the accused person can be blamed.³

Regarding Law Number 8 of 1981, regarding the Criminal Procedure Code (KUHP) which prioritizes the rights of suspects, Romli Atmasasmita also acknowledged that: "The function of the Criminal Procedure Code mainly focuses on protecting dignity and the dignity of the suspect or defendant".⁴

In practice, it is also rare or even almost never to combine cases of compensation claims. This happened because the victim did not know their rights, the public prosecutor did not inform the victim of these rights, the legal advisor did not want to be bothered, and the judge did not offer this process. So this problem is quite complex.

The concept of restorative justice is a critique of the concept of the criminal justice system which sees crime as a violation of state rules. The state has the right to punish violators in order to create social stability. The victim's suffering is considered complete/break even if the state has made the perpetrator suffer. However, this is a concept of colonial heritage which is considered not to have a positive impact on reducing crime rates and recidivism rates.⁵

As a result of the criminal justice system which tends to be offender oriented, victimology as a victim-oriented study provides the rationale for the need for the concept of resolving cases outside the criminal justice system. The solution offered is the settlement of criminal cases in the context of restorative justice. The concept of the Restorative Justice approach is an approach that focuses more on the conditions for creating justice and balance for victims and perpetrators. This is a legal requirement of the community and a mechanism

³Andi Hamzah, *Indonesian Criminal Procedure Code*, (Jakarta: Sinar Grafika, 2013), 7-8.

⁴Didik M. Arief Mansur & Elisatri Gultom, *The Urgency of Protecting Victims of Crime Between Norms and Reality*, (Jakarta: Raja Grafindo, 2008), 25.

⁵Afthonul Afif, *Forgiveness, Reconciliation and Restorative Justice*, (Yogyakarta: Student Library, 2015), 341-350.

that must be established in the exercise of the prosecution's authority and reform of the criminal justice system.

Imprisonment is the main type of crime that is threatened with criminal acts. Barda Nawawi Arief stated that the threat of imprisonment is very dominant in the Indonesian Criminal Code, even today. The formulation of the imperative sentence of imprisonment in Indonesia is a legacy of the classical school of thought which stipulates punishment with the definite sentence.⁶

The reason that imprisonment is still the main crime that is threatened with criminal acts is because imprisonment is still considered by the State as the most effective criminal sanction to deter criminals from committing or repeating their actions. But in fact, on the other hand, imprisonment also poses a dilemma, because from the past until now the effectiveness of imprisonment is increasingly doubtful. As many as 448 inmates of the Class IIB Sialang Bungkuk Rutan, Pekanbaru, Riau fled after being involved in a commotion in the detention center. Throughout 2017, there were at least four cases of escapees of prisoners in correctional institutions whose conditions were overcapacity.⁷

The purpose of the criminal procedure law, among others, can be read in the guidelines for the implementation of the Criminal Procedure Code issued by the Minister of Justice. The purpose of the criminal procedure law is to seek and obtain or at least approach the material truth, namely the complete truth of a criminal case by applying the provisions of the criminal procedure law honestly and accurately with the aim of finding out who the perpetrators can be charged with violating the law. , and then requesting an examination and decision from the court to find out whether it is proven that a criminal act has been committed and whether the accused person can be blamed.⁸

As for several cases that occurred in the jurisdiction of the Riau High Prosecutor's Office, the author describes 3 (three) cases that were submitted to the Riau High Prosecutor's Office, including: 1) case of criminal acts in Pelalawan Regency; 2) case of criminal acts of persecution in Pekanbaru City; and 3) case that occurred in Kampar Regency.

⁶ Barda Nawawi Arief, *Legislative Policy in Combating Crimes with Imprisonment*, (Semarang: Diponegoro University Publishing Agency, 1994), 201-202

⁷ Lepas Karena Over Kapasitas," Medcom.id, accessed 24 January 2020, <https://video.medcom.id/nsi/0k8jLq0N-lepas-due-over-capacity>

⁸ Andi Hamzah, *Op. Cit.*, 7-8.

First case of criminal acts in Pelalawan Regency that were resolved by restorative justice, namely the crime of fraud or embezzlement where the perpetrator or suspect was threatened with Article 378 of the Criminal Code Jo. Article 372 of the Criminal Code, with the value of losses incurred as a result of a criminal act of Rp. 210,000,000, - (two hundred and ten million rupiah).

However, the request to terminate the prosecution of the criminal fraud case under the name of the suspect Azman Bin Bachtiar was not approved by the Head of the Riau High Prosecutor's Office on the grounds:

1. The value of the loss caused by the crime is Rp. 210,000,000, - (two hundred and ten million rupiah) more than Rp. 2.500.000,- (two million five hundred thousand rupiah).
2. Does not include criteria or circumstances that are casuistic or certain conditions.
3. The public did not respond positively.

The legal basis for not being approved by the Head of the Riau High Prosecutor's Office is that it refers to Article 5 paragraph (1) Criminal cases can be closed for the sake of law and the prosecution terminated based on Restorative Justice if the following conditions are met:

1. the suspect has committed a crime for the first time;
2. a criminal offense is only punishable by a fine or punishable by imprisonment of not more than 5 (five) years; and
3. a criminal act is committed with the value of the evidence or the value of the loss caused as a result of the crime of not more than Rp. 2.500.000, (two million five hundred thousand rupiah).⁹

However, the legal basis for the approval of restorative justice carried out at the Pelalawan District Prosecutor's Office is to refer to the instructions for the implementation of the attorney general's regulation on restorative justice in number 1 (one) of the public prosecutor in carrying out the termination of prosecution based on restorative justice based on 3 principle requirements:

1. the suspect has committed a crime for the first time;
2. the threat of a fine and or imprisonment of not more than 5 (five) years and;

⁹ See Article 5 paragraph (1) of the Prosecutor's Office of the Republic of Indonesia Number 15 of 2020 Against Termination of Prosecution

3. evidence or the value of the loss of the case is not more than Rp. 2,500,000,000.00 (two million five hundred thousand rupiah).

Then in number 2 (two) it is stated that the public prosecutor may exclude the principle requirements as referred to in number 1 (one) for certain conditions:

1. the value of evidence (BB) or the loss may exceed Rp. 2,500,000,000.00 (two million five hundred thousand rupiah) but the punishment is still a fine or imprisonment for not more than 5 (five) years; or
2. criminal penalties can be in the form of a fine or imprisonment of more than 5 (five) years, provided that the loss still cannot exceed Rp. 2,500,000,000.00 (two million five hundred thousand rupiah).

The results achieved from peace based on restorative justice between the victim and the perpetrator have made peace with the signing of a peace agreement between the victim and the perpetrator, as well as evidenced by a receipt for payment/payment of compensation by the perpetrator to the victim, so that the purpose of restorative justice itself has been accomplished. i.e. restoration back to its original state.

Second case of criminal acts of persecution in Pekanbaru City on behalf of the defendant Handoko Benlizar Als Handoko against the victim on behalf of Hanafi Als Evi Bin (late). The case of abuse carried out by suspect Handoko has been reconciled based on restorative justice by the Pekanbaru District Prosecutor, and has been approved by the Head of the Riau High Prosecutor's Office to terminate the prosecution on the grounds of minor abuse and the victim received injuries to the fingers. The suspect has also paid for the treatment experienced by the victim.¹⁰

Third case that occurred in Kampar Regency was also successfully carried out by peace based on restorative justice in the case on behalf of the suspect Salmaini Binti Basir Pasaribu, et al who are suspected of violating Article 363 Paragraph (2) Jo 363 Paragraph (1) of the 4th Criminal Code against the victim on behalf of Budiono. This case has also been approved by the Head of the Riau High Court for termination of prosecution.

Of the 3 cases above that the author describes, there are differences in the implementation of the application for termination of prosecution to the Riau High Prosecutor's Office, where there are 2 (two) cases that have been approved by the Head of the Riau High

¹⁰ Based on the letter from the Head of the Riau High Prosecutor's Office Number: 3159/L.4/Eoh.2/09/2020 Regarding Termination of Prosecution

Prosecutor's Office for termination of prosecution, while for 1 (one) the case has not received any approval. approval by the Head of the Riau High Prosecutor's Office to terminate the prosecution.

This theoretically contradicts the philosophy of the existence of restorative justice because based on the instructions for implementing the Regulation of the Prosecutor's Office of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, that between the victim and the perpetrator has made peace and the perpetrator has compensated the victim. With the return of the victim's rights and the achievement of peace, the goal of Restorative Justice itself has been achieved, namely the restoration to its original state which is the initial requirement for submitting a request for approval to terminate the prosecution to the Riau High Court.

On the other hand, Law Enforcement Officials have different perspectives regarding the termination of prosecution of cases that have been resolved based on restorative justice, where the perspective of Law Enforcement Officials itself is not in line with the intent of the Republic of Indonesia Prosecutor's Regulation Number 15 of 2020 itself. So with such situations and conditions, in practice there are still double standards in the application of Restorative Justice as referred to in the Regulation of the Prosecutor's Office of the Republic of Indonesia Number 15 of 2020. It should be when the perpetrator and the victim have made peace based on restorative justice, namely restoration back to its original state,

The peace effort is an evaluation carried out by the Supervision Team by the Junior Attorney General for General Crimes in 2020/2021. Every Termination of Prosecution based on Restorative Justice must comply with the Letter of the Deputy Attorney General for General Crimes Number B-4301/E/EJP/9/2020 dated September 16, 2020 regarding Instructions for Implementing the Regulation of the Prosecutor's Office of the Republic of Indonesia Number 15 of 2020 Against Termination of Prosecution Based on Restorative Justice, specifically Number 1 letter c, Number 2 letter a, b and c, are related to the value of evidence or loss while still based on the philosophy that the termination of prosecution based on restorative justice is carried out to protect the interests of small communities as stated in the letter of the Deputy Attorney General for General Crimes Number B-4762/E/EJP/10/2020 dated October 9, 2020.¹¹

¹¹ The Attorney General's Office of the Republic of Indonesia, the Attorney General's Office, Control and Improvement of Settlement of Criminal Cases Conducted by Termination of Prosecution based on Restorative Justice, Jakarta, 29 March 2021.

PROBLEMS WITH THE APPLICATION OF RESTORATIVE JUSTICE IN VIEW OF THE REGULATION OF THE ATTORNEY GENERAL OF THE REPUBLIC OF INDONESIA NUMBER 15 OF 2020

Prosecutor's Regulations concerning Termination of Prosecution Based on Restorative Justice. Chapter I General Provisions Article 1 In this Prosecutor's Regulation what is meant by:¹²

1. Restorative Justice is the settlement of criminal cases by involving the perpetrator, victim, family of the perpetrator/victim, and other related parties to jointly seek a fair solution by emphasizing restoration to its original state, and not retaliation.
2. A victim is a person who has suffered physical, mental and/or economic loss caused by a criminal act.
3. Public Prosecutors are prosecutors who are authorized by law to carry out prosecutions and carry out judges' decisions.
4. A suspect is a person who because of his actions or circumstances, based on preliminary evidence, should be suspected as a criminal act.

Article 2 Termination of prosecution based on restorative justice is carried out on the basis of:¹³

1. justice;
2. public interest;
3. proportionality;
4. punishment as a last resort; and
5. fast, simple, and low cost.

The results of the author's interview with the Assistant for General Crimes that every Termination of Prosecution based on Restorative Justice must follow the Letter of the Deputy Attorney General for General Crimes Number: B-4301/E/EJP/9/2020 dated September 16, 2020 regarding Instructions for the Implementation of the Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 concerning the termination of prosecution based on Restorative Justice, specifically number 1 letter c, number 2 letter a, b and c related to the value of evidence or loss while still based on the philosophy that the termination of

¹² See Article 1 of Law Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice

¹³ See Article 2 of Law Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice

prosecution based on restorative justice is carried out to protect the interests of small communities and cases that can be resolved with restorative justice are cases of minor crimes.¹⁴

The case from the Pelalawan District Prosecutor's Office was rejected by the Kajati Riau because the case was not included in the category of a minor crime with a loss value of Rp. 210,000,000 (two hundred and ten million rupiah) and the case was a case that attracted the attention of the public so that The community did not respond positively to this case.¹⁵

As in connection with the letter requesting the termination of the prosecution of the criminal case of fraud with the name of the suspect Azman bin Bakhtiar with the number R-365/L.4/Eoh.2/10/2020 that the principal of the letter attached to the Pelalawan District Attorney's Office for the request to terminate the prosecution of the case was rejected. with reason:¹⁶

1. the value of the loss caused by the crime is Rp. 210,000,000 (two hundred and ten million), more than Rp. 2,500,000 (two million five hundred thousand rupiah);
2. does not include criteria or circumstances that are casuistic or certain conditions; and
3. the public did not respond positively.

Based on this, the case needs to be followed up immediately by delegating the case to the court with evidence:

1. 1 original receipt signed by Rodial on 24 July 2016;
2. 1 original receipt signed by Rodial on 30 July 2016; and
3. 1 original receipt signed by Azman;

However, based on the instructions for implementing the regulations of the Prosecutor's Office of the Republic of Indonesia Number 15 of 2020 concerning the termination of prosecution based on restorative justice which contains in connection with the issuance and implementation of the regulations as stated in the letter, it turns out that in its implementation there are still multiple interpretations of understanding, therefore it is necessary to submit the following implementation instructions. :¹⁷

¹⁴ Rizal Syah (Assistant for General Crimes Riau High Court), Interview with Researcher at Pekanbaru, 15 June 2021.

¹⁵ Rejection of Justice's Restorative Case at the Riau High Prosecutor's Office, suspect Azman bin Bakhtiar with number R-365/L.4/Eoh.2/10/2020

¹⁶ Letter of refusal or Disapproval of Request for Termination of Prosecution of Criminal Acts of Fraud with the suspect name Azman Bin Bahtiar, Number R-365/L4/E0h 2/10/2020

¹⁷ Instructions for the Implementation of the Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, Number B-4301/E/EJP/9/2020

1. The public prosecutor in carrying out the termination of prosecution based on restorative justice is based on three principle requirements:
 - a. The suspect has committed a crime for the first time;
 - b. The threat of a fine or imprisonment of not more than 5 (five) years;
 - c. Evidence or the value of the loss of the case is not more than Rp. 2,500,000 (two million five hundred thousand rupiah)
2. The public prosecutor may exclude the principle requirements as referred to in number 1 (one) for certain conditions:
 - a. For criminal acts related to property then:
 - 1) the value of evidence or loss may exceed Rp. 2,500,000 (two million five hundred thousand rupiah), but the punishment is still a fine or imprisonment for not more than 5 years; or
 - 2) the criminal threat may not be in the form of a fine or imprisonment of more than 5 years, as long as the loss should not exceed Rp. 2,500,000 (two million five hundred thousand rupiah)
 - b. For criminal acts related to person, body, life or independence, the value of BB or the value of loss may be excluded, meaning that it may exceed Rp. 2,500,000 (two million five hundred thousand rupiah).
 - c. For criminal acts committed by negligence, then:
 - 1) the criminal penalty may not be a fine or imprisonment of more than 5 years; and
 - 2) losses can be more than Rp. 2,500,000 (two million five hundred thousand rupiah)

The cases that occurred, which are still in the area of the Riau High Court in an effort to approach restorative justice are as follows:

1. Case of criminal acts in Pelalawan Regency that were resolved by restorative justice, namely the crime of fraud or embezzlement where the perpetrator or suspect was threatened with Article 378 of the Criminal Code Jo. Article 372 of the Criminal Code, with the value of losses incurred as a result of a criminal act of Rp. 210,000,000, - (two hundred and ten million rupiah). However, the request to terminate the prosecution of the criminal fraud case with the suspect name Azman Bin Bachtiar was not approved by the Head of the Riau High Court.

2. Case of criminal acts of persecution in Pekanbaru City on behalf of the defendant Handoko Benlizar Als Handoko against the victim on behalf of Hanafi Als Evi Bin (late). The case of abuse carried out by suspect Handoko has been reconciled based on restorative justice by the Pekanbaru District Prosecutor, and has been approved by the Head of the Riau High Prosecutor's Office to terminate the prosecution on the grounds of minor abuse and the victim received injuries to the fingers. The suspect has also paid for the treatment experienced by the victim.¹⁸
3. Case that occurred in Kampar Regency was also successfully carried out by peace based on restorative justice in the case on behalf of the suspect Salmainsi Binti Basir Pasaribu, et al who are suspected of violating Article 363 Paragraph (2) Jo 363 Paragraph (1) of the 4th Criminal Code against the victim on behalf of Budiono. This case has also been approved by the Head of the Riau High Court for termination of prosecution.

Of the 3 cases above that the author describes, there are differences in the implementation of the application for termination of prosecution to the Riau High Prosecutor's Office, where there are 2 (two) cases that have been approved by the Head of the Riau High Prosecutor's Office for termination of prosecution, while for 1 (one) the case has not received any approval. approval by the Head of the Riau High Prosecutor's Office to terminate the prosecution.

As for the results of the author's interview with the Pelalawan District Attorney Facilitator, that the reconciliation of the fraud case that occurred, the suspect Azman Bin Bahtiar with Muslim Victim Efendi Bin Legiman (late), and the companion of Victim Sumrawati Bin M. Yusuf (late) whose peace was approved at the Pelalawan State Attorney with witnessed by Investigator Anra Nosa, Community H. Rakib.¹⁹

All the cases that the author raised in this study that the prosecutor in handling cases that had carried out restorative justice in the case confirmed that the case had been approved and some were not approved. The results of the author's interview with the Kampar State Prosecutor's Facilitator who said that²⁰ The approved case is Based on the Warrant of the Head of the Kampar District Prosecutor's Office, he has made peace efforts based on restorative

¹⁸ Based on the letter from the Head of the Riau High Prosecutor's Office Number: 3159/L.4/Eoh.2/09/2020 Regarding Termination of Prosecution

¹⁹ Abu Abdurahman (Pelalawan District Attorney Facilitator), Interview with Researcher at Pangkalan Kerinci, Based on Minutes of Peace Implementation, June 10, 2021.

²⁰ Selfia Ayunika Nilamsari (Kampar District Attorney Facilitator), Interview with Researcher at Bengkinang, 11 June 2021.

justice in the case of the defendant Salmaini Binti Basir Pasaribu, DKK who is suspected of violating Article 363 Paragraph (2) Jo 363 Paragraph (1) The 4th Criminal Code is located at the Kampar District Attorney.²¹

The peace agreement is as follows:

- a. The Public Prosecutor as the facilitator opened the peace agreement. After explaining the aims and objectives as well as the rules for implementing peace, the facilitator then explained the time, place and brief description of the criminal acts suspected of having been committed by the defendant Salmaini Binti Basir Pasaribu, DKK.
- b. Furthermore, the facilitator provides an opportunity for the Victim and the Defendant Party by entering into a peace agreement accompanied by the fulfillment of the following obligations: The first party is able to compensate for all material and material losses of the second party.
- c. Thus, this Minutes was prepared and signed by the Parties, the Public Prosecutor as Facilitator of the peace agreement and the Witnesses who participated in responding positively to this peace process.

The results of the author's interview with the Pekanbaru State Prosecutor's Facilitator who confirmed that the cases that were restorative justice were; the case of persecution on behalf of the suspect Handoko Benlizar Als Handoko based on the Letter of the Head of the Riau High Prosecutor's Office Number: 3159/ L4/ Eoh.2/ 09/ 2020. The reconciliation of the case of the persecution carried out by the suspect Handoko against the victim witness Hanafi Als Evi Bin Gustal (late) was witnessed by the prosecutor Public Prosecutor Aulia Rahman, and Assistant Investigator Tri Suryanto Anugroho, and Head of the General Crimes Section Robi Harianto.²²

The author is of the opinion that in the case above, with the peace that has been carried out, the parties have actually been sincere and accepted. This is based on corrective justice, which is basically justice that relies on correcting a mistake, for example if there is a mistake in someone who causes harm to another person, then the person who causes the loss must provide compensation (compensation) to the party who receives the loss. to restore its state as a result of the error committed.

²¹ Minutes of the Peace Agreement, Bangkinang, 10 September 2020,

²² Rendi Panalosa (Pekanbaru District Attorney Facilitator), Interview with Researcher at Pekanbaru, 10 June 2021.

With the difference in responding to cases carried out with a restorative justice approach that occurred in the jurisdiction of the Riau High Prosecutor's Office, it can be seen in the implementation instructions regarding the termination of prosecution which became a reference by the Pelalawan District Prosecutor's Office which became the reason for a restorative settlement, but the Riau High Prosecutor's Office think otherwise.

Therefore, when viewed from the perspective of legal certainty, according to Jan Michiel Otto, legal certainty has a more juridical dimension. However, Otto wants to provide a further limit for legal certainty. For this reason, he defines legal certainty as the possibility that in certain situations:

- a. There are rules that are clear (clearly), consistent and easy to obtain (accessible), issued by and recognized by the state (power);
- b. Ruling agencies (government) apply the rules of law consistently and are also subject to and obedient to them;
- c. Citizens principally adjust their behavior to these rules;
- d. Independent and impartial judges (courts) apply the rules of law consistently when they resolve legal disputes, and;
- e. Judicial decisions are concretely implemented.²³

Laws enforced by law enforcement agencies assigned to do so must guarantee "legal certainty" for the sake of upholding order and justice in people's lives. Legal uncertainty will cause chaos in people's lives, and will do each other as they please and act as vigilantes. This situation makes life in an atmosphere of social disorganization or social chaos.²⁴

Legal certainty is "sicherheit des Rechts selbst" (certainty about the law itself). There are four things related to the meaning of legal certainty. First, that the law is positive, meaning that it is legislation (gesetzliches Recht). Second, that the law is based on facts (Tatsachen), not a formulation of the judgment that will be made by the judge, such as "good will", "politeness". Third, that the fact must be formulated in a clear way so as to avoid mistakes in meaning, as well as being easy to implement. Fourth, the positive law should not be changed frequently.²⁵

²³ Jan Michiel Otto translation by Tristram Moeliono in Shidarta, *Morality of the Legal Profession An Offering Framework for Thinking*, (Bandung: PT Revika Aditama, 2006), 85.

²⁴ M. Yahya Harahap, *Discussion of Problems and Application of the Criminal Code for Investigation and Prosecution*, (Jakarta: Sinar Grafika, 2002), 76.

²⁵ Satjipto Rahardjo, *Law in the Universe of Order*, (Jakarta: UKI Press, 2006), 135-136.

The problem of legal certainty in relation to the implementation of the law cannot be completely separated from human behavior. Legal certainty does not follow the principle of "pushing a button" (automatic subsumption), but rather something quite complicated, which has a lot to do with factors outside the law itself. Speaking of certainty, as Radbruch said, what is more appropriate is the certainty of the existence of the regulation itself or the certainty of the regulation (*sicherheit des Rechts*).²⁶

To measure justice, according to Fence M. Wantu said, "fair is essentially putting things in their place and giving to anyone what is their right, which is based on the principle that all people are equal before the law (equality before the law)."²⁷ Therefore, an emphasis that tends to be more on the principle of justice can mean having to consider the laws that live in society, which consist of customs and unwritten legal provisions. Judges in their legal reasons and considerations must be able to accommodate all provisions that live in society in the form of habits and unwritten legal provisions, when choosing the principle of justice as the basis for deciding the case at hand.

Justice is an action or decision given to something (either winning/giving and or dropping/rejecting) in accordance with applicable laws and regulations, fair as long as the word comes from the Arabic 'adala, which means straight. The term means putting something in its place/rules, the opposite is tyranny/persecution (putting something out of place).

The formulation of justice is not easy to describe in concrete terms, because it is an abstract formulation. The description of the social message of workers according to Hans Kelsen, that law as a moral category is tantamount to justice, an expression used as the truth of a social message, which is entirely with the aim of satisfying everyone. Longing for justice psychologically, is an eternal longing for humans to get happiness, which cannot be found in individuals, because of that social happiness called "justice" seeks it in society.²⁸

The restorative justice is often called "restorative justice".²⁹ which is a model approach that emerged in the era of the 1960s in an effort to resolve criminal cases. In contrast to the approach used in the conventional criminal justice system, this approach focuses on the direct

²⁶*Ibid*, 139.

²⁷ Fence M. Wantu, "Realizing Legal Certainty, Justice and Benefit in Judge Decisions in Civil Courts", *Journal of Legal Dynamics* 12 No. 3, (2012), 484

²⁸ *Ibid*.

²⁹ This term was used by UNICEF in an international seminar held in Jakarta in 2002 and in various seminars and writings, writers commonly use this term, for example Diah D. Yanti, *Diversion and Restorative Justice in handling cases of children in conflict with the law in Lampung*.

participation of perpetrators, victims and the community in the process of resolving criminal cases. Despite the fact that this approach is still debated theoretically, this view has in fact evolved and has influenced legal policy and practice in many countries.

In handling criminal cases, the restorative justice approach offers different views and approaches in understanding and handling a criminal act. In the view of restorative justice, the meaning of crime in general is an attack on individuals and society as well as social relations.³⁰ However, in the restorative justice approach, the main victim for the occurrence of a crime is not the state, as in the current criminal justice system.³¹

Therefore, crime creates an obligation to fix the damaged relationship due to the occurrence of a crime.³² Meanwhile, justice is defined as the process of finding solutions to problems that occur in a criminal case where the involvement of victims, communities and perpetrators is important in efforts to repair, reconcile and guarantee the continuity of the repair business.³³

The restorative justice approach is assumed to be the most recent shift from the various models and mechanisms that work in the criminal justice system in dealing with criminal cases at this time. The United Nations through the Basic Principles that it has outlined that can be used in a rational criminal justice system. This is in line with the view of G. P Hoefnagels which states that criminal politics must be rational (a rational total of the responses to crime).³⁴ The restorative justice approach is a paradigm that can be used as a framework for criminal case handling strategies that aim to address dissatisfaction with the current working of the criminal justice system.

Restorative Justice is a concept of thought that responds to the development of the criminal justice system by focusing on the need for community involvement and victims who feel excluded from the mechanisms that work in the current criminal justice system. On the other hand, restorative justice is also a new framework of thinking that can be used in responding to a crime for law enforcement and legal workers.

³⁰In reality, this change cannot be separated from the view of criminology which sees developments in seeing the perpetrators of criminal acts, the definition of criminal acts and the response that occurs to a crime. Although it cannot be stated that the new criminological view is similar to the restorative justice view, it cannot be denied that the presence of both has an impact on a paradigm shift as a result of the development of this thought. Koesriani Siswosoebroto, *New Approach in Criminology*, (Jakarta: Trisakti University Publisher, 2009), 36.

³¹ *Ibid.*

³²Crime is a violation of people and relationships... it creates obligations to make things right. *Ibid.*

³³ *Ibid.*

³⁴Barda Nawawi, *Op. Cit.*, 201-202.

In the Black's Laws Dictionary it is emphasized that restorative justice is an alternative sanction for crime that focuses on correcting harmful acts, meeting the needs of victims and holding perpetrators accountable for their actions. This restorative justice uses a balanced approach, resulting in a restrictive disposition by focusing on the responsibility of the perpetrator and providing assistance to the victim. Perpetrators may be ordered to provide restitution (restitution), to perform a service to the community, or to make changes in some way at the behest of a court.

“An alternative delinquency sanction that focuses on repairing the harm done, meeting the victims needed, and holding the offender responsible for his or her actions. Restorative justice sanctions use a balanced approach, producing the least restrictive disposition while stressing the offenders accountability and providing relief to the victim. The offender may be ordered to make restitution , to perform community service, or to make amends in some other way that the court orders”.³⁵

In one online encyclopedia, it is said that restorative justice (or often also called "reparative justice") or in Indonesian terms can be translated as "restorative or reparative justice or justice" is an approach to justice that focuses on the needs of victims and perpetrators. , as well as the communities involved, rather than satisfying abstract legal principles or punishing perpetrators. Victims take an active role in the process, while perpetrators are encouraged to take responsibility for their actions, “to repair the harm they have done by apologizing, returning stolen money, or community service. Restorative involves both victims and perpetrators and focuses on their individual needs.

In addition, it provides assistance to offenders to avoid future offences. It is based on a theory of justice which considers crimes and offenses to be offenses against individuals or society, not the state. Restorative justice that fosters dialogue between victims and perpetrators demonstrates the highest levels of victim satisfaction and perpetrator accountability.

³⁵Bryan A. Garner, ed., *Blacks laws Dictionary, eight edition*, (United state of America : Thomson Business, 2004), 1340.

CONCEPTS AND EFFORTS TO OVERCOME INTERNAL PROBLEMS APPLICATION OF RESTORATIVE JUSTICE TO TERMINATION OF PROSECUTION IN THE LEGAL TERRITORY OF THE RIAU HIGH COURT

The concept of a restorative justice approach as an alternative to resolving minor criminal cases is immediately implemented in Indonesia as an effort to reform the law, because restorative justice is an approach that focuses more on the conditions for creating justice and balance between the perpetrators of crimes and the victims. The mechanisms and procedures for criminal justice that focus on sentencing have been transformed into a process of dialogue and mediation to create an agreement on a more just and balanced settlement of criminal cases for both victims and perpetrators.

Restorative justice has the meaning of restoring justice. In the current criminal justice system, restitution or compensation for victims is known, while restoration has a broader meaning. Restoration includes restoring the relationship between the victim and the perpetrator. Restoration of this relationship can be based on a mutual agreement between the victim and the perpetrator. The victim party can convey about the loss suffered and the perpetrator is given the opportunity to make up for it, through compensation mechanisms, reconciliation, and other agreements are important because the current criminal process does not provide space for the parties involved in the case, in this case the victim and the victim. actors to actively participate in solving their problems. Every indication of a criminal act, regardless of the escalation of the act, will continue to be rolled out into the realm of law enforcement which is only the jurisdiction of law enforcers. Active participation from the community seems to be no longer important, everything only leads to sentencing decisions or ishment without seeing the essence.

The application of the principles of restorative justice to mediate certain criminal cases needs to be addressed. The concept of mediation of criminal cases makes it possible for cases carried out by perpetrators while the parties mutually accept and sincerely do not need to be brought to court. With a personal and sociological approach to be more precise, legal development, so that the law is not seen by the small community as something scary. In turn, the concept of mediation is expected to reduce the number of convicts in correctional institutions and can eliminate piles of cases in the Supreme Court.

Imprisonment is the main type of crime that is threatened with criminal acts. Barda Nawawi Arief stated that the threat of imprisonment is very dominant in the Indonesian Criminal Code, even today. The formulation of the imperative sentence of imprisonment in

Indonesia is a legacy of the classical school of thought which stipulates punishment with the definite sentence.³⁶

The reason that imprisonment is still the main crime that is threatened with criminal acts is because imprisonment is still considered by the State as the most effective criminal sanction to deter criminals from committing or repeating their actions. But in fact, on the other hand, imprisonment also poses a dilemma, because from the past until now the effectiveness of imprisonment is increasingly doubtful. As many as 448 inmates of the Class IIB Sialang Bungkok Rutan, Pekanbaru, Riau fled after being involved in a commotion in the detention center. Throughout 2017, there were at least four cases of escapees of prisoners in correctional institutions whose conditions were overcapacity.³⁷

The purpose of the criminal procedure law, among others, can be read in the guidelines for the implementation of the Criminal Procedure Code issued by the Minister of Justice. The purpose of the criminal procedure law is to seek and obtain or at least approach the material truth, namely the complete truth of a criminal case by applying the provisions of the criminal procedure law honestly and accurately with the aim of finding out who the perpetrators can be charged with violating the law. , and then requesting an examination and decision from the court to find out whether it is proven that a criminal act has been committed and whether the accused person can be blamed.³⁸

The idea of the concept of Restorative Justice or restorative justice as an alternative form of settlement emerged as a response to the performance of the conventional traditional criminal justice system, which has the following characteristics:

1. Acting for the settlement of cases are legal apparatus (police, prosecutors, courts, prisons) on behalf of the state for the public/community interest (victims), lawyers/advocates on behalf of the perpetrators, without direct involvement of the community, perpetrators and victims or without the active role of the perpetrators. parties involved in the crime to solve their own problems.
2. That the results of the decision (output) are more likely to be retaliatory or punitive rather than giving a "win-win solution" (beneficial to both parties) in accordance with the will of the parties.

³⁶ Barda Nawawi Arief, *Op.Cit.*, 201-202

³⁷ Accessed via <https://video.medcom.id/nsi/0k8jLq0N-lepas-due-over-capacity>

³⁸ Andi Hamzah, *Op. Cit.*, 7-8.

3. The perceived justice is retributive (emphasizing justice on retaliation) and restitutive (justice that emphasizes on the basis of compensation), and does not think of ways to provide restorative justice that can be felt thoroughly by all interested parties (stakeholders).

The ultimate goal of the concept of restorative justice is to reduce the number of prisoners in prison; removing stigma and returning criminals to normal human beings; criminals can realize their mistakes, so they don't repeat their actions, and this can reduce the workload of the police, prosecutors, prisons, courts, and prisons; saving state finances does not create a feeling of revenge because the perpetrator has been forgiven by the victim, the victim quickly gets compensation; empowering communities in overcoming crime and; reintegration of criminals into society.

From the description above, it is very appropriate if the concept of a restorative justice approach as an alternative to resolving minor criminal cases is immediately implemented in Indonesia as an effort to reform the law, because restorative justice is an approach that focuses more on the conditions for creating justice and balance between perpetrators of criminal acts with the victim. The mechanisms and procedures for criminal justice that focus on sentencing have been transformed into a process of dialogue and mediation to create an agreement on a more just and balanced settlement of criminal cases for both victims and perpetrators. Restorative justice has the meaning of restoring justice.

In the current criminal justice system, restitution or compensation for victims is known, while restoration has a broader meaning. Restoration includes restoring the relationship between the victim and the perpetrator. Restoration of this relationship can be based on a mutual agreement between the victim and the perpetrator. The victim party can convey about the loss suffered and the perpetrator is given the opportunity to make up for it, through compensation mechanisms, reconciliation, and other agreements are important because the current criminal process does not provide space for the parties involved in the case, in this case the victim and the victim. actors to actively participate in solving their problems. Every indication of a criminal act, regardless of the escalation of the act, will continue to be rolled out into the realm of law enforcement which is only the jurisdiction of law enforcers. Active participation from the community seems to be no longer important, everything only leads to sentencing decisions or ishment without seeing the essence.

The meaning and nature of criminal law reform itself, can be viewed from socio-political, socio-philosophical, socio-cultural aspects or from various policy aspects (especially

social policies, criminal policies and law enforcement policies). Criminal law reform must be a manifestation of changes and renewal of various aspects and policies that underlie it. Criminal law reform implies an effort to reorient and reform criminal law in accordance with the central socio-political, socio-philosophical and socio-cultural values of Indonesian society. As for criminal law reform, it can be realized by making restorative justice as part of the alternative settlement of minor criminal cases, this is arranged with an orientation to the "idea of balance", which includes, among other things, a mono dualistic balance between public/public interest and individual/individual interests; balance between the protection/interests of criminals and victims of crime, balance between "objective" (outward actions) and "subjective" elements/factors (person/inner/inner attitude), balance between formal and material criteria, balance between legal certainty, flexibility/elasticity/flexibility and fairness, and finally the balance between national values and global/international/universal values.

According to Consendine, the principle of restorative justice is urgently needed in responding to the development of the criminal justice system by emphasizing the involvement of the community and victims in the settlement of criminal cases. This principle is based on the settlement of cases amicably between the perpetrator and the victim, besides that this principle is intended to make the law in favor of legal vulnerable groups, including children, the elderly, and the poor. The restorative justice model not only accommodates the interests of the "law-vulnerable" community, but also prevents the accumulation of cases in the Supreme Court (MA).³⁹

Compare with the opinion of Kathleen Daly who in her writing states that restorative justice is an umbrella concept that refers to many things. As applied to criminal matters, it can be defined as a method of responding to crime that includes the key parties to the dispute (that is, victim and offender) with the aim of repairing the harm. To date, restorative justice has been used primarily in cases where the people have admitted they have done something wrong, it thus focuses on the penalty phase of the criminal process, not on the fact-finding phase. Restorative justice may refer to diversion from formal court process, to actions taken in parallel with court decisions, and to meetings between offenders and victims at any stage of the criminal process (arrest, pre-sentencing, sentencing and prison release).⁴⁰

³⁹ Andrew Goldsmith and Mark Israel, *Criminal Justice in Diverse Communities*, (Australia: The Federation Press, 2000), 167.

⁴⁰ Eric A. Posner, *Op. Cit.*, 107.

Based on the opinion above, it can be concluded that, in the practice of criminal justice, cases that are approved by the parties should be carried out in a restorative manner at the District Attorney's level and approved by the High Prosecutor's Office because the parties have felt fair with the peace. The author also argues that if the case is brought to court, this will make the other suspects unwilling to pay compensation as an effort to make peace with the victim, because the perpetrator will still receive a prison sentence after undergoing the trial process.

The large number of criminal cases that have been resolved through the judicial process has not only resulted in many people having to go to 'prison', but also makes law enforcement officers work like production machines. The operation of the law that runs mechanically has distanced the "eyes of the heart" of the apparatus in handling a case. How is it possible to expect the conscience of the apparatus, when in his head he has been confronted again with a pile of other cases that must be resolved immediately.

Also compare with Braithwaite's opinion which states that: "I have already said that restorative justice can and should have the meaning of justice that empowered all communities of care for victims and offenders independent and non-indigenous. It is possible to design restorative justice so it does not shift power over indigenous people from the hands of white judges to the hands of police who are accountable to judges. It is possible for dialogue to occur between indigenous elders and experts who have learned research lessons from the other".⁴¹

Law enforcement officers are sometimes trapped in normative legal thoughts, that the law gives the impression of being haunted and frightening to the public. Law enforcers are trapped in the rigidity of the language and text of laws and regulations. What is written is also carried out. In fact, what must be realized quickly is that the law must develop along with the development of society. Law enforcers should dare to make a breakthrough, without reducing the value of law enforcement itself. In addition to functioning as an enforcer of justice, the law also functions as a means of development, maintenance and security guards as well as a means of education for the community.

Thus, the application of the principle of restorative justice to mediate certain criminal cases needs to be responded to. The concept of mediation for criminal cases allows cases of fraud, such as the Azman Bin Bahtiar case, to be brought to court, even though it has fulfilled the restoration of the victim's rights, namely Efendi.

⁴¹ John Braithwaite, *Op.Cit.*, 153.

With a personal and sociological approach in the judge's room. More precisely, legal development, so that the law is not seen by the small community as something scary. In turn, the concept of mediation is expected to reduce the number of convicts in correctional institutions and can eliminate piles of cases in the Supreme Court.

Observing the conception of legal mediation by applying the principles of restorative justice, of course, it must be followed by the acceleration of criminal law reform (penal reform), so there are three things that can be accommodated, namely:⁴²

1. Categorization of crimes in several levels. In this case, the division of criminal acts into violations and crimes that have been embraced in the Criminal Code has been changed to a categorization of crimes into three levels, namely minor, moderate, and serious crimes, followed by differences in the procedures and mechanisms for resolving cases. For example, for the category of minor crimes, the settlement of cases is sufficient through mediation of the parties in the police. The category of moderate crime already has permanent legal force (in-kracht van gewijsde) in the stage of the appeal court, so there is no need to go to the level of cassation. Categories of serious crimes that may reach the level of cassation. In addition, the higher the category of crime, the more severe the threat of sanctions. For example, for categories, serious crimes,
2. Expansion of the conception of the reason for the abolition of the criminal. So far, at the level of criminal law theory that adheres to the principle of peace or even the payment of compensation, it does not erase the unlawful nature of an act. Even though the perpetrator pays "compensation money" as a form of reconciliation with the victim, this does not stop the criminal process but is only something that can ease criminal charges against the perpetrator. This concept needs to be expanded in certain criminal acts, especially in the reality that has occurred, where the perpetrator of a crime who has paid an agreed amount of money with the victim's family, the perpetrator will no longer continue his case at the prosecution level.
3. The existence of a pre-justice court is a model for resolving cases before being submitted to court. This pre-judicial trial is intended so that victims and perpetrators can have free space to determine the next settlement of the case. If they agree to settle it amicably, a peace deed is drawn up so that there is no need to proceed through the examination process in court. Of

⁴²Musakkir, "The Sociology of Law Study on the Application of Restorative Justice Principles in the Settlement of Criminal Cases," *Amanna Gappa Journal of Legal Studies* 19, no. 3 (2011), 219.

course, the mechanisms and procedures for the pre-justice model should be accommodated in the renewal of the Criminal Procedure Code, as an umbrella in the enforcement of criminal procedural law.

These three substances are expected to mediate criminal cases as discussed, and can be implemented without compromising legal certainty. This is because restorative punishment involves victims, families and other parties in solving problems. Regarding this, compare it with Consedine's opinion which states that: "Victims need to examine their feelings and take full advantage of any support network that will facilitate healing. Victims are helped to see their own victimization is only intensified by feelings of retributive action against the offender. Where appropriate they become involved in the process of restorative justice with the offender and the community. The community's role is to create the conditions most favourable to the restoration of both offenders and victims. It aids the healing process by providing mediators, judges, supervisors and other appropriately appointed people".⁴³

Based on the description above, it can be said that the perpetrators of criminal acts are responsible for repairing the losses caused by their actions. Meanwhile on the victim's side, the emphasis is on recovering lost assets, physical suffering, security, dignity and satisfaction or a sense of justice. For the perpetrators and the community, the goal is to give shame so that the perpetrator does not repeat his actions, and the community accepts it. Basically there are several advantages that can be obtained by handling minor crimes through restorative justice, which include:

1. That the community has been given the space to handle their own legal problems which are felt to be fairer.
2. The burden on the state is reduced in some ways, for example, the burden of dealing with minor crimes can still be resolved independently by the community. The police, prosecutors and courts can focus more on eradicating criminal acts with more dangerous qualifications, such as narcotics, terrorism, human trafficking or gross human rights violations. Then furthermore, administratively, the number of cases that enter the judicial system can be reduced so that the burden on court institutions as described above is reduced.

⁴³Jim Consedine, *Op.Cit.*, 158-159.

3. The burden of providing a budget for the implementation of the criminal justice system, especially correctional institutions, is somewhat reduced because the settlement of criminal cases currently ends up being sentenced to imprisonment or imprisonment, this has led to the emergence of many problems in correctional institutions. So that with the mechanism for resolving minor criminal cases through restorative justice, it is expected to reduce these problems.

The model for resolving cases is through restorative, the perpetrator does not need to go to prison if the interests and losses of the victim have been restored, the victim and the community have forgiven, while the perpetrator has expressed his regret. The restorative model must be implemented starting from the Police, when the case is first under investigation. In the prosecutor's office and the court, the same must be done. The thing that is difficult to recover is recovering the suffering of the victim, both physically and psychologically, while the material loss may be replaced by the perpetrator.

Criminal punishment is basically a form of atonement for mistakes that have been made by someone. It is like the act of paying a debt to the creditor. Therefore, when a prisoner has finished serving his sentence, he must be treated as an independent person like a debtor who has paid off his debt. If ex-convicts are not treated fairly as ordinary citizens who have made amends, then the worst result is that they will be able to repeat their unlawful acts, regarding this Bacigal in his book "Criminal Law and Procedure, an Overview" states that: "Another common definition of crime focuses on two elements: mens rea and actus reus. Mens rea is a generic term that includes a variety of wrongful states of mind. Actus reus "requires proof of a voluntary act by the defendant [the actus]... that results in the harm to society prohibited by the offense in question [the reus]."1 Although combining the actus and the reus can sometimes be helpful, at other times the combination obscures the distinction between harm and conduct".⁴⁴

There is no one definition of crime applies to all situations; however, a simplistic "working definition" of crime considers three elements that occur in most crimes: 1) mental state (mens rea); 2) physical act (a component of actus reus); and 3) social harm (another component of actus reus). This working definition can be utilized when examining the legal requirements for any crime. At this point a determination of what crime was committed cannot

⁴⁴ Ronald J. Bacigal, *Criminal Law and Procedure, an Overview*, (USA: Third Edition Delmar, 2009), 19.

be made, because the consequences or harm of the defendant's mental state and physical act are unknown.⁴⁵

Based on Bacigal's opinion above, it can be said that violations of the law committed by perpetrators have at least several characteristics, not a single characteristic of criminals. Criminals in this case are not legal categories, but social categories, namely people whose behavior patterns tend to violate criminal law. Violation of criminal law has become the main choice in behavior. The current judiciary does not prove that one becomes a deterrent and solves problems. Conceptually, alternative justice is justice that can see justice as a whole and is more sensitive. This overall justice also includes the possibility of reparations made by the convicted party to the victim. With this opportunity, the concept of justice is more acceptable to all parties.

In fact, the formal court process is costly, lengthy, tiring, does not solve the problem and what is worse, is full of corrupt practices, collusion and nepotism. One of the various problems that make this form of justice look problematic is, considering that a one for all mechanism has been carried out for all types of cases. This has resulted in the turning of many parties to find alternative solutions to their problems.

The restorative justice process is basically carried out through discretion (wisdom) and this diversion is an effort to divert from the criminal justice process outside the formal process to be resolved amicably. Settlement through deliberation is actually not a new thing for the Indonesian people. Before the Dutch occupation, Indonesia already had its own laws, namely local wisdom. This local wisdom does not distinguish the settlement of criminal cases from civil cases, all cases can be resolved by deliberation with the aim of getting a balance or restoration of the situation, by making the local wisdom the benchmark, then all settlements of these cases will definitely be accepted by the community because it always leads to local wisdom that lives and grows in a society.

CONCLUSION

Problems with the Application of Restorative Justice in view of the Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 on Termination of Prosecution in the Legal Territory of the Riau High Court. The difference of opinion occurred

⁴⁵ *Ibid.*

in the Pelalawan District Attorney who argued that the case with Number: R-28/L.4.19.Eoh.2/10/2020 the suspect Azman Bin Bahtiar and the Muslim victim Efendi Bin Legiman (late) could be dismissed from prosecution on the basis of submitting to the implementation instructions. the attorney general's regulation on restorative justice that the suspect has committed a criminal act for the first time and is threatened with a criminal under 5 (five) years, the loss in the amount of Rp. 2,500. 000 (two million five hundred thousand rupiah) may be excluded. Meanwhile, the Riau High Prosecutor's Office believes that in this case, the value of the loss caused by the crime is Rp. 210,000,000, - (two hundred and ten million rupiah) more than Rp. 2.500.000, - (two million five hundred thousand rupiah), and does not include criteria or circumstances that are casuistic or certain conditions, and the community does not respond positively. Concepts and Efforts to Overcome Internal Problems Application of Restorative Justice to Termination of Prosecution in the Legal Area of the Riau High Prosecutor's Office It has been running as the regulation was issued with the aim of prioritizing justice in the community. However, in carrying out restorative justice efforts to overcome problems, there are still differences in interpreting the Instructions for Implementing the Regulation of the Prosecutor's Office of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice.

BIBLIOGRAPHY

- Afif, Afthonul. *Forgiveness, Reconciliation and Restorative Justice*. Yogyakarta: Student Library, 2015.
- Arief, Didik M. Mansur & Gultom, Elisatri, *The Urgency of Protecting Victims of Crime Between Norms and Reality*. Jakarta: Raja Grafindo, 2008.
- Bacigal, Ronald J. *Criminal Law and Procedure, an Overview*. USA: Third Edition Delmar, 2009.
- Garner, Bryan A. Ed., *Black's Law Dictionary, Eight Edition*. United State of America: Thomson Business, 2004.
- Goldsmith, Andrew and Mark. *Criminal Justice in Diverse Communities*. Australia: The Federation Press, 2000.
- Hamzah, Andi. *Indonesian Criminal Procedure Code*. Jakarta: Sinar Grafika, 2013.
- Harahap, M. Yahya, *Discussion of Problems and Application of the Criminal Code for Investigation and Prosecution*. Jakarta: Sinar Grafika, 2002.

Hartanti, Evi. *Corruption Crimes*. Jakarta: Sinar Grafika, 2006..

Indra, Mexsasai. "Urgency of Judicial Review of the Constitution on the Constitution by the Constitutional Court". *Journal of the Constitution* 4, no. 1 (2001).

Law Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice Letter of refusal or Disapproval of Request for Termination of Prosecution of Criminal Acts of Fraud with the suspect name Azman Bin Bahtiar, Number R-365/L4/E0h 2/10/2020 Medcom.id. <https://video.medcom.id/nsi/0k8jLq0N-lepas-due-over-capacity>.

Michiel, Jan Otto translation by Tristam Moeliono in Shidarta. *Morality of the Legal Profession An Offering Framework for Thinking*. Bandung: PT Revika Aditama, 2006.

Musakkir. "The Sociology of Law Study on the Application of Restorative Justice Principles in the Settlement of Criminal Cases." *Amanna Gappa Journal of Legal Studies* 19, no. 3 (2011).

Nawawi, Barda Arief, *Legislative Policy in Combating Crimes with Imprisonment*. Semarang: Diponegoro University Publishing Agency, 1994.

Rahardjo, Satjipto, *Law in the Universe of Order*. Jakarta: UKI Press, 2006.

Rizal Syah Comfortable, Assistant for General Crimes, Riau High Court, June 15, 2021

The Attorney General's Office of the Republic of Indonesia, the Attorney General's Office, Control and Improvement of Settlement of Criminal Cases Conducted by Termination of Prosecution based on Restorative Justice, Jakarta 29 March 2021.

The letter from the Head of the Riau High Prosecutor's Office Number: 3159/L.4/Eoh.2/09/2020 Regarding Termination of Prosecution

The Prosecutor's Office of the Republic of Indonesia Number 15 of 2020 Against Termination of Prosecution

Wantu, Fence M. "Realizing Legal Certainty, Justice and Benefit in Judge Decisions in Civil Courts." *Journal of Legal Dynamics* 12, no. 3 (2012).