

Research Article

The Role of the Prosecutor's Office of the Republic of Indonesia in Optimizing Restorative Justice Policy in Indonesia

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Abstract.

The law enforcement system in Indonesia is currently facing a crisis caused by various factors. Restorative justice is one of the policies aimed at resolving criminal cases by involving the perpetrator, victim, the families of the perpetrator/victim, and other relevant parties in seeking a fair resolution that emphasizes restoration to the original state rather than retaliation. To achieve the goals of this policy, the Attorney General's Office of the Republic of Indonesia has issued a restorative justice policy to achieve restorative justice in the field of criminal law throughout Indonesia. The research method in this study utilizes qualitative-descriptive research, relying on the process of data collection through interviews and a literature review. Through this study, it has been found that (1) the fundamental concept of restorative justice policy in Indonesia and (2) the optimization of restorative justice policy in Indonesia have been implemented through public awareness campaigns, cooperation with local governments, the establishment of restorative justice centers, and the facilitation of peace through mediation.

Keywords: policy, optimization, restorative justice

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Published: 30 May 2024

Publishing services provided by
Knowledge E

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Selection and Peer-review under the responsibility of the ICOSSH VI Conference Committee.

1. Introduction

The current law enforcement crisis in Indonesia is one of the most acute challenges in the country's legal history [1]. This crisis is rooted in a number of complex factors that negatively impact the justice system and the image of the law in the eyes of the public. The main cause of this crisis is the tendency to ignore the essential principles in the application of law, namely justice (*gerechtigheit*) and the principle of legal expediency [2]. Instead, law enforcement often focuses more on creating legal certainty (*rechtssicherheit*), which in turn results in widespread distrust among the public. One concrete example of public distrust of law enforcement is when it is found that legal instruments, including legislative products and executive policies, are considered unable to reflect the principles of social justice [3]. This has resulted in disapproval and protests among the public who feel that the law should favor the public interest and

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fight for the rights of every individual, especially the more vulnerable [4]. In addition, judicial institutions that are not fully independent and impartial are one of the triggers of distrust in the legal system. The authority and integrity of judicial institutions are questioned when there are indications of political intervention or pressure from certain parties that can influence the judicial process. This creates doubts in the minds of the public about whether legal decisions will be based on actual facts and law or whether there are external factors that influence the process. Not only that, distrust also arises from inconsistencies and discrimination in law enforcement [5]. When some individuals or groups are treated differently in the justice system, whether in terms of respect for the law or the punishment given, this undermines people's faith in the justice of the law [6]. The fact that legal protections have not reached a satisfactory level for most people also exacerbates this distrust. Many citizens feel that they do not have equal access to the justice system or that the legal protection they receive falls short of expectations.

In the process of forming criminal law norms and determining criminal penalties, there are at least three main objectives to be achieved through the application of criminal law in society. First, criminal law aims to shape or achieve the concept of an ideal or expected community life. Second, criminal law plays a role in maintaining and strengthening moral values that are considered noble in society. Third, criminal law is also used to maintain actions or behaviors that are considered good and are expected to be followed by the community, using the formulation of negative norms. The imposition of criminal sanctions is influenced by various reasons that form the basis for the threat and application of punishment. In this context, the reasons for punishment can come from considerations of retaliation for unlawful acts, considerations of public benefit, or even a combination of retaliation with certain objectives to be achieved through punishment.

Restorative Justice policy is one of the innovations introduced by Attorney General ST Burhanuddin to provide legal certainty to ordinary people Irbahia, I., Suswanto, B., & Mafing, M. A. A. (2022). This policy has historical roots in the International Conference entitled "Integrated Approaches to Challenges Facing the Criminal Justice System." On that occasion, Burhanuddin proposed the Restorative Justice method as an integrated approach in the Indonesian criminal justice system, which includes the stages of investigation, prosecution, and court decisions.

In achieving this goal, Attorney General ST. Burhanuddin took the initiative to introduce the concept of Restorative Justice as a new approach to the criminal justice system in Indonesia [7]. This approach was designed by considering the traditional values that underpin Indonesian society and the mechanisms it offers. The existence of Restorative

Justice is relevant and important in the framework of improving justice in the legal system.

Restorative Justice is also considered as a way to overcome prolonged trials and address the issue of overcapacity in correctional institutions through the Attorney General Regulation (Perja) No.15 of 2020 which was promulgated on July 22, 2021 [4, 5]. This regulation aims to resolve minor criminal cases without going to trial. Since the enactment of this Perja, there have been 300 cases successfully terminated by prosecutors throughout Indonesia [8]. This is in line with efforts to restore conditions to what they were before the “damage” caused by the perpetrator’s actions [9].

The concept of Restorative Justice that is emphasized is conflict resolution, which is actively proposed and accommodated in the drafting of the new Draft Criminal Code (RUU KUHP) [10]. In this Draft Criminal Code, the introduction of alternative punishment system, such as social work punishment and supervision punishment, is a concrete step to realize the principles of Restorative Justice. With this approach, attention is given simultaneously to the interests of crime victims, offenders, and the community. It aims to not only sanction the offender, but also to restore the relationship between the offender and the victim, and improve the social climate in the community. Restorative Justice provides space for perpetrators to acknowledge their actions, understand the impact they have caused, and try to make things right. In addition, victims also have the opportunity to obtain justice, healing, and recognition for their suffering [9]. Thus, Restorative Justice in Indonesia is not only about law enforcement, but also about building a more harmonious and just society by taking into account the social and moral aspects that are important to Indonesian society [11]. This approach shows a concrete effort in integrating traditional values with modern criminal law concepts to achieve the goal of more comprehensive justice.

In this study, it aims to explain the optimization of the Restorative Justice policy by the Prosecutor’s Office of the Republic of Indonesia in order to carry out its duties and functions as one of the Indonesian government law enforcement agencies in the territory of Indonesia, and also analyze efforts to optimize restorative justice policies in Indonesia in general.

2. Methods

This research adopts a qualitative-descriptive approach that bases itself on data collection methods through in-depth interviews and literature study analysis [12]. The qualitative-descriptive approach describes an explanatory process that parses meaning

in words and sentences, produced through in-depth observation and careful analysis of the object of research. In the data collection stage through interviews, the researcher took a step by interviewing the Head of the General Criminal Section (Pindum) of the Central Bangka District Attorney's Office. This interview was intended to explore in-depth understanding and views on the research topic. In addition, the researcher also collected data from various literature sources, including books, scientific journals relevant to the object of research study [13].

After all the data was collected, the research then underwent a comprehensive analysis stage. Data collected from interviews and literature studies were then analyzed aiming to gain a deep understanding of the research subject and to identify patterns, themes, and meanings that emerged from the data. Finally, the researcher compiles a research report that explains the entire research process, data analysis, findings, and conclusions. This report is not only a comprehensive academic work, but also a valuable contribution in broadening the understanding of the research topic and promoting the development of knowledge in the field.

3. Result And Discussion

3.1. Restorative Justice Policy in Indonesia

Restorative Justice is a paradigm-shifting approach to the resolution of criminal cases. This approach strongly emphasizes the restoration and repair of relationships disrupted by criminal acts, involving not only perpetrators and victims, but also their families and other related parties. The aim is to achieve a fair settlement and restore the situation to its original state, but not through the imposition of punishment as a retaliatory measure. In this regard, Restorative justice is based on a number of key principles, which are adhered to throughout the process. First, the principle of equity demands fair treatment for all parties involved, taking into account their needs and rights. Secondly, this approach emphasizes the public interest, i.e. the restoration of peace and harmony in society as a top priority.

In addition, the concept of proportionality in Restorative Justice demands that the restorative measures and sanctions applied must be proportional to the level of the offense. The use of punishment is considered as the last option after more lenient remedies have been pursued. The resolution process using the Restorative Justice approach should also be quick, simple, and low cost, thus allowing remedial action to occur effectively without overburdening the justice system. With this approach,

Restorative Justice is not just about punishing offenders, but also about giving them the opportunity to acknowledge their actions, understand the impact they have had, and seek to make amends. Victims also have an active role in this process, giving them the opportunity to seek justice, redress and recognition for their suffering.

Furthermore, restorative justice also creates space for communities to participate in the process of recovery and repair, promotes a better understanding of the root causes of criminality, and encourages positive social change. Therefore, the Restorative Justice approach champions a more holistic and sustainable method of dealing with crime, which prioritizes recovery, reconciliation, and improved relationships between all parties involved. In addition, Restorative Justice is also considered a solution to the problem of prolonged judicial proceedings and overcapacity in correctional institutions. Through a faster and simpler Restorative Justice process, cases can be concluded more efficiently.

However, restorative justice is not so easy to provide, but there are several requirements that must be met by a person in order to be entitled to receive Restorative Justice policies, which open up opportunities for a more humane approach to dealing with crime and prioritize reconciliation and recovery rather than just punishment. As stated by Tampubolon [14] that there are several requirements including:

First Time Offense: One of the main requirements is that the crime committed by the offender is a first-time offense. This indicates that Restorative Justice tends to be applied in cases where the offender does not have a long criminal record. This approach gives individuals who may be caught in their first mistake the opportunity to correct their behavior without having to face severe punishment.

Limited Harm: Restorative Justice policies apply to criminal offenses that do not result in significant material loss. In this case, the limit of loss set is not exceeding IDR 2.5 million. This approach is suitable for cases where the harm caused may be relatively minor and can be remedied by restorative measures, rather than taking the conventional judicial route.

Offender and Victim Agreement: One of the important elements of Restorative Justice is the agreement between the offender and the victim to follow this approach. Both parties must agree to take part in the reconciliation and healing process proposed by the Restorative Justice system. This agreement reflects a mutual commitment to finding a better solution than conventional punishment..

On that basis, Restorative Justice policy is an important step in Indonesia's criminal justice reform efforts. It shifts the focus from punishment alone to restoration and reconciliation, helps engage communities in the conflict resolution process, and provides

individuals who are in the first degree of culpability with the opportunity to correct their behavior without having to face legally severe consequences [15]. This approach not only benefits perpetrators and victims, but also promotes positive changes in the legal and social culture of society, towards a more just and humane justice system [16].

3.2. Efforts to Optimize Restorative Justice Policy in Indonesia

In principle, it is known that Restorative Justice is the settlement of criminal cases by involving perpetrators, victims, families of perpetrators/victims, and other related parties to jointly seek a fair solution by emphasizing recovery back to its original state, and not retaliation. Termination of prosecution based on restorative justice is carried out with the principles of justice, public interest, proportionality, punishment as a last resort, fast simple and low cost/ The process of law enforcement through a restorative justice approach in resolving criminal cases carried out by the prosecutor's office refers to Perja No.15 of 2020.

In addition, the birth of the Restorative Justice policy is related to how the dynamics of change and the shift in law enforcement of the current Attorney General's Office towards humanist law enforcement. Through the application of Restorative Justice, minor criminal cases are stopped prosecution, the conflicting parties agree to peace and forgive each other. "This is solely to maintain friendship, togetherness, tolerance in the midst of people's lives. people must be legally literate and stay away from criminal acts. Therefore, there are several interesting aspects of the efforts to optimize the Restorative Justice policy carried out by the Prosecutor's Office of the Republic of Indonesia, namely disposing to all High and State Prosecutors throughout Indonesia, which are then socialized to the community. In this case, the High Prosecutor's Office and District Attorney's Office in all regions in Indonesia are given the task of socializing widely to the community, village officials, socializing to local governments and their staff and also forming Restorative Justice houses in all Indonesian villages. These aspects are used by the

Attorney General's Office of the Republic of Indonesia as an effort to optimize the Restorative Justice policy to achieve legal awareness and achieve humanist justice.

The Attorney General's Office of the Republic of Indonesia in optimizing the restorative justice policy by socializing directly to the community, village officials in all villages in Indonesia. In this case, the model of efforts made by the High and State Attorney's Office in the regions begins with comprehensive socialization to the community, village officials, and local community leaders. This socialization aims not only to introduce the

concept of Restorative Justice, but also to educate the community on its principles. This includes how to involve the community in conflict resolution, the importance of dialogue, and exploring joint solutions.

The next optimization effort is to socialize to local governments. High and State Attorney's Offices throughout Indonesia have conducted socialization not only to the community, village officials and village heads, but also to local governments. The socialization process to the government basically aims to make partners in order to support the implementation of the restorative justice policy, which in turn gives birth to the same understanding of law enforcement. From this socialization, the High and State Attorney's Office involves organizing workshops and meetings with local government officials to ensure full support and integration of Restorative Justice principles in local legal policies and practices. This shows that the socialization of Restorative Justice policies to the local government and its staff is carried out, as well as cooperation with local governments in the establishment of Restorative Justice Houses. In this case, the optimization of the restorative justice policy carried out by the High and State Prosecutors' Attorneys is not only successful in socializing to the government but also cooperating in law enforcement and prevention of legal actions and acts of corruption in their respective prosecutorial administration areas.

Apart from the second optimization effort above, the next effort is to establish Restorative Justice Houses. In this case, aiming to bring Restorative Justice services closer to the community, Restorative Justice Houses will be established in every urban village and village within Indonesia. These will be centers of restorative justice activities, where mediation, dialogue and reconciliation will be the main focus. Trained facilitators will be responsible for facilitating meetings between offenders, victims, and the local community to reach fair and reconciliatory solutions.

According to the Head of Pidum Section of the Central Bangka District Attorney's Office, through the establishment of this Restorative Justice House, the role of community leaders and religious leaders is very important, besides indeed in resolving legal cases can be more humane. In this case, starting from the forgiveness factor, the deliberation factor is very important, and the role of community and religious leaders is very important. So that, for example, disputes between neighbors can be resolved and can return to harmony. "In addition, the establishment of the Restorative Justice House is not just ceremonial, but is actually intended for people who have minor cases and want to end peacefully. Therefore, the restorative justice house is a place to resolve cases through restorative justice, not all cases, but must meet the requirements based on Attorney General Regulation Number 15 of 2020 [9].

Interestingly, the Restorative Justice House can be visited by all members of the community in various regions in Indonesia. For this reason, his party will also continue to supervise and monitor the Restorative Justice House and make a rotating schedule so that there are prosecutors on standby and occupy the house. That way, it is hoped that the community can obtain convenience regarding legal coordination and consultation or even provide services to the community. To date, the High and State Attorney's Offices have successfully established restorative justice houses in various regions in Indonesia, in accordance with the instructions and directives socialized by the prosecutor's office and their respective local governments. In fact, the establishment of the Restorative Justice House is basically always marked by the signing of the inscription and the submission of the Decree on the Establishment of RJ together with the head of each region. In this case, the establishment of Justice Houses aims to overcome minor criminal cases and minimize overcapacity in prisons / detention centers.

From this, it can be seen that the optimization efforts that have been carried out by the Attorney General's Office of the Republic of Indonesia as a whole aim to create a legal environment that focuses more on recovery, reconciliation and conflict prevention. By involving all levels of society, village officials, local government, and the justice system, the optimization of Restorative Justice policies is expected to provide a more sustainable and fair solution to conflicts that arise in society.

4. Conclusion

Restorative Justice policy in Indonesia is a set of measures and approaches used to improve the effectiveness of the justice system by focusing on reconciliation, healing and community participation. The aim is to create a more inclusive legal environment that positively impacts local communities, by involving all stakeholders in the conflict resolution process.

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