

## IMPLEMENTATION OF RESTORATIVE JUSTICE IN DISTRICT ATTORNEY'S OFFICE OF ROKAN HULU: CONTEMPORARY ISSUES

Susanto Martua\*, Ampuan Situmeang\*\*, Rufinus Hotmaulana Hutauruk\*\*\*

Universitas Internasional Batam\*

Universitas Internasional Batam\*\*

Universitas Internasional Batam\*\*\*

### Abstract

*The Attorney General's Office issued Regulation of Attorney General Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice (hereinafter written RAG No. 15/2020). According to this regulation, the Public Prosecutor has the right to stop prosecuting the accused in certain cases, if the victim and the defendant have agreed to an amicable agreement. The existence of RAG No. 15/2020 which gives the Prosecutor's authority to stop prosecutions based on restorative justice is a breakthrough in the settlement of criminal acts. Restorative justice is an approach in resolving criminal acts which is currently being voiced again in various countries. Through a restorative justice approach, victims and perpetrators of criminal acts are expected to achieve peace by prioritizing win-win solutions, and emphasizing that the victims' losses are replaced and the victims forgive the perpetrators of the crime in condition that is committed with the value of the evidence or the value of the loss caused by the crime of not more than 2.5 million rupiah. Referring to the principle of fast, simple, and low-cost justice, RAG Number 15 of 2020 has been accommodated for settlement through an out-of-court process, namely a peace process between the victim and the perpetrator. The peace process is carried out by the parties voluntarily, with deliberation for consensus, without pressure, coercion, and intimidation. In the peace process, the Public Prosecutor acts as a facilitator, which means that he has no interest or connection with the case, the victim, or the suspect, either personally or professionally, directly or indirectly.*

**Keywords:** *Termination, Prosecution, Based on Justice, Restorative Justice*

### A. Background

Public prosecutors have the authority based on Article 14 of the Indonesia Penal Code to carry out prosecutions in criminal cases. Along with the development of minor crimes, for example cases of chocolate theft, sandal theft and various other minor crimes, the legal settlement of criminal acts has also changed with the issuance of policies related to Restorative Justice . Restorative justice was first published in conjunction with the Republic of Indonesia's Attorney General's Office, commonly known as *Hari Bhakti Adhyaksa* and this Restorative Justice was adopted from the implementation of Restorative Justice in European countries, and until now Restorative Justice has been developed not only at the prosecution level at the Indonesian Attorney General's Office, but has developed up to the investigation level at the Indonesian National Police.

The requirements for Restorative Justice are regulated differently per institution, at the investigator level, Restorative Justice is regulated in National Police Regulation and for the prosecution level it is regulated in RGA No. 15/2020. According to this regulation, the public prosecutor has the right to stop the proceedings against the defendant in certain cases if an amicable agreement is reached between the victim and the defendant.<sup>1</sup> It is

---

<sup>1</sup> Regulation of Attorney General No. 15 Year 2020

hoped that the release of this RGA will be an encouraging news for the public who committed minor criminal cases considered unworthy of being brought to court. It is said to be inappropriate because the cost of the case incurred is not comparable to the value of the loss from the crime, especially if there is a desire from the victim to make peace. If it continues, it has the potential to hurt social justice.

Before the establishment of RGA No. 15 of 2020, the prosecutor's institution had no choice not to proceed a crime prosecution formally and materially complete even to the smallest amount of loses crime. As an example, the case of theft committed by *Nenek Minah*<sup>2</sup> and *Kakek Samirin* has fulfilled the elements of theft offense<sup>3</sup>. Even though the conscience of the case does not deserve to be tried, however, without a legal references that is strong enough to stop it, the prosecutor cannot refuse the case presented by the investigator. For this reason, there is a need for a legal breakthrough in addressing the problem of legal justice that is developing in society. More than that, this RGA is also expected to be able to overcome the dilemma of overcapacity in Indonesia penitentiary.<sup>4</sup>

Indonesia adheres to an integrated criminal justice system based on the principle of "functional differentiation". Every law enforcement officer carries out law enforcement in accordance with the mechanism of the process of authority given to each law enforcement officer based on what is regulated in the law.<sup>5</sup> The mechanism of the integrated criminal justice system is intended to prove to convict people who have committed crimes. In other words, to prove someone is guilty or not, they must go through a process regulated in the procedural law which is carried out by the state apparatus at every stage. The criminal justice system in Indonesia consists of 4 (four) components, started by the police, prosecutors, courts and penitentiary. These four components are expected to work together and form the operation of an "Integrated Criminal Justice System".<sup>6</sup>

As criminal justice process in Indonesia consists of a series of stages, it is starting from prior investigation, investigation, arrest and detention by the police, prosecution process by the prosecutor, examination/trial in court, to sentencing by the court (which included undergo sanction in penitentiary).<sup>7</sup> This stage is a very complex activity. All of them aim to find and bring closer to material truth, namely the complete truth of a criminal case by establishing the provisions of criminal procedure law honestly and precisely.<sup>8</sup>

The prosecutor is a state apparatus whose job is to prosecute the accused. The majority of the public thinks that their duties are the same as those of a public prosecutor.

---

<sup>2</sup> Jadidah, F. (2022). Kasus Nenek Minah Ditinjau Dari Perspektif Teori Hukum Positivisme. *Iblam Law Review*, 2(3), 129–142. <https://doi.org/10.52249/ilr.v2i3.98>

<sup>3</sup> "Ambil Getah Karet Senilai Rp17 Ribu, Samirin Dibui 2 Bulan" selengkapnya di sini:

<https://www.cnnindonesia.com/nasional/20200116141042-12-465939/ambil-getah-karet-senilai-rp17-ribu-samirin-dibui-2-bulan>., Accessed 20<sup>th</sup> July 2023

<sup>4</sup> Hutauruk, Rufinus Hotmaulana. *Penanggulangan Kejahatan Korporasi Melalui Pendekatan Restoratif Suatu Terobosan Hukum*. Sinar Grafika, 2019.

<sup>5</sup> Yahya harahap, *Pembahasan Permasalahan dan Penerapan KUHAP (Penyidikan dan Penuntutan)*, Jakarta: Sinar Grafika, 2000, hlm. 90.

<sup>6</sup> Mardjono Reksodiputro, *Hak Asasi Manusia dalam Sistem Peradilan Pidana*, Jakarta: Pusat Pelayanan Keadilan dan Pengabdian Hukum Universitas Indonesia, 1997, hlm. 85.

<sup>7</sup> Kurniawan Tri Wibowo, *Hukum dan Keadilan (Peradilan yang Tidak Kunjung Adil)*, Depok: Papas Sinar Sinanti, 2020, hlm. 58.

<sup>8</sup> Ratna Nurul Afiah, *Barang Bukti dalam Proses Pidana*, Jakarta: Sinar Grafika, 1998, hlm.13.

Though both have different tasks. The duties and powers of the prosecutor are regulated in article 30 of the Law of the Republic of Indonesia Number 11 of 2021 concerning amendments to Law Number 16 of 2004 concerning the Attorney General of the Republic of Indonesia. The existence of this Law is a distinction between the duties and powers of the Attorney General and the Public Prosecutor.

Indonesia's National Criminal Procedure Code states that a public prosecutor has the authority not to proceed with prosecution for legal purposes if 1) The case being tried has expired; 2) the evidence submitted is insufficient; and 3) the suspect dies. Meanwhile, the public prosecutor does not have the authority not to proceed with the handling of cases to the trial stage if the formal and material requirements of a case have been met. The consequence is that when the perpetrator and the victim agree to reconcile at the prosecution stage, the public prosecutor will continue the case until it has permanent legal force (trial process).

The existence of the RGA No. 15 of 2020 concerning termination of prosecution based on restorative justice which gives the public prosecutor the authority to stop prosecutions based on restorative justice is a "Breakthrough" in solving criminal acts. Restorative justice is an approach to solving crimes that is currently being voiced again in various countries. Through a restorative justice approach, victims and perpetrators of crimes are expected to achieve peace by prioritizing a win-win solution and emphasizing that the victims' losses are replaced and the victims forgive the perpetrators of crimes.

However, the implementation of this system has not applied equally and prevalent in all region offices of prosecutor in Indonesia. Knowledge regarding the implementation of Restorative Justice in some parts of Indonesia is still need to be develop. To be realize this, a country cannot create prosperity, peace, tranquility, justice and overcome crime by itself, so it requires a state apparatus. That's why researchers are interested and trying to discuss this topic in a journal with the title " Implementation of Restorative Justice in Prosecutors office of Pasir Pangaraian : Contemporary Issues" which took location of research in the Rokan Hulu Regency District Attorney's Office.

Previous research has been conducted, such as 1) *The application of Restorative Justice at the Prosecution level for criminal acts of persecution at the Kotamobagu District Attorney*,<sup>9</sup> which analyze about the implementation of Restorative Justice in crime of torture, when Restorative Justice is considered to have a significant role in the implementation law supremacy. Also, 2) *the study of the Attorney General's Regulation No. 15 of 2020 on the Termination of Prosecution Based on Restorative Justice*,<sup>10</sup> which focus on the termination of prosecution shall carried out in the interests of the victim and other protected legal interests.

## B. Identification Problems

Meanwhile in this research, the author focuses on 2 main discussions, which:

---

<sup>9</sup> Irabiah, Irabiah, Beni Suswanto, and Muhammad Ali Alala Mafing. "Penerapan Restorative Justice Pada Tingkat Penuntutan (Studi Kasus Di Kejaksaan Negeri Kotamobagu)." *Perspektif* 27, no. 2 (2022): 131-138.

<sup>10</sup> Kristanto, Andri. "Kajian Peraturan Jaksa Agung Nomor 15 Tahun 2020 Tentang Penghentian Penuntutan Berdasarkan Keadilan Restoratif." *Lex Renaissance* 7, no. 1 (2022): 180-193.

1. How is restorative justice applied in terminating sentences based on Attorney General Regulation Number 15 of 2020?
2. What are the obstacles faced by the Rokan Hulu District Attorney's Office in implementing restorative justice to stopping prosecutions and efforts to overcome them?

### C. Research Methodology

The method used is juridical-sociological<sup>11</sup> to analyzing the identification problems. Juridical Sociological method will combined with statute approach.<sup>12</sup> The literature research conducted was to compare regulations, provisions and theories from reference books as well as the data obtained and then analyzed qualitatively which will provide a comprehensive picture of the legal aspects related to the problem to be studied. The uses of data as initial data which is then supported by primary data, will examines the effectiveness of a law<sup>13</sup> and research that seeks to find correlation between various symptoms or variables as a means of collecting data consists of studies documents, observations and interviews.<sup>14</sup>

The data analysis method used in this study is a qualitative approach, namely a discussion conducted by combining library research and field research. After the analysis is complete, the results will be presented in a descriptive narrative, namely by describing the findings in the field according to the problems studied. Then conclusions are drawn which are the answers to the problems raised in this study.

### D. Research Findings and Discussions

#### 1. Commentary on Restorative Justice in an effort to stop prosecution based on Regulation of Attorney General (RAG) Number 15 Year 2020

Recently, all law enforcement institutions in Indonesia including the Supreme Court, the Attorney General's Office, the Police and the Ministry of Law and Human Rights, practically have adopted the principle of Restorative Justice as a way to resolve a criminal case. In 2012 these four institutions made a joint agreement, namely a Joint MoU between the Chief Justice of the Supreme Court of the Republic of Indonesia, the Minister of Law and Human Rights, the Attorney General and the Head of the Indonesian National Police with 1) MoU Number: 131/KMS/SKB/X/2012; 2)MoU Number: M-HH-07.HM.03.02 Year 2012; 3)Number: KEP-06/E/EJP/10/2012; 4)Number: B/39/X/2012 dated 17 October 2012 concerning the Implementation of the Application for Adjusting the Limits of Misdemeanor Crimes and the Amount of Fines, the Procedure for Examination and the Implementation of Restorative Justice.

---

<sup>11</sup> Huda, Muhammad Chairul, and M. H. S HI. *Metode Penelitian Hukum (Pendekatan Yuridis Sosiologis)*. The Mahfud Ridwan Institute, 2021.

<sup>12</sup> Sunggono, Bambang. "Metode penelitian hukum." *Jakarta: Raja Grafindo Persada* (2003).

<sup>13</sup> Soekanto, Soerjono. "Efektivitas Hukum dan Penerapan Sanksi." *Bandung: CV. Ramadja Karya* (1988).

<sup>14</sup> Amiruddin, *Pengantar Metode Penelitian Hukum*, (Jakarta: PT. Raja Grafindo Persada, 2012)

Based on an interview with Hendarsyah,<sup>15</sup> as Head of the General Crime Section of the Rokan Hulu District District Attorney Office said that "the principle of restorative justice is one of the principles of law enforcement in settling cases that can be used as an instrument of recovery and has been carried out by the supreme court in the form of policy enforcement (high court regulations and supreme court circulars), but the implementation in the Indonesian criminal justice system is still not optimal yet, especially in Rokan Hulu.

Based on the RI Attorney's Regulation No. 15 of 2020 concerning Termination of Prosecution based on Restorative Justice, hereinafter this RGA Referred as legal basis of Restorative Justice in every District Attorney's Office, it clearly states how restorative justice seeks to involve perpetrators, victims and the public in the process of resolving these criminal cases. In implementing the restorative justice approach based on RGA No. 15 of 2020 it can be seen that the regulation focuses on a peace agreement between the perpetrator and the victim and how the procedural law recognizes the existence of the peace agreement as an agreement that has legal force. As a concrete investment from a paradigm of punishment not for retaliation but as recovery. The Attorney General's Office took a strategic step by issuing RI Attorney Regulation Number 15 of 2020 concerning Termination of Prosecution based on restorative justice which was promulgated on July 22, 2020 *Bhakti Adhyaksa* Day (HBA). 15 of 2020 also contains restrictions on the implementation of restorative justice so that it is not only interpreted as a peace agreement because if so the ongoing process will actually be trapped in merely carrying out procedural functions so that truth (especially material truth) and justice cannot be achieved.

The results of the author's research at the Rokan Hulu District District Attorney Office, after the formal provisions regarding the conditions for stopping prosecution based on restorative justice are fulfilled, the public prosecutor who has been appointed based on the letter of appointment of the case investigator prosecutor (P-16) will prepare several administrations for its implementation and as materials to be reported to the leadership, namely:

- a. Opinion Note on case's preliminary investigation research results (SOP Form 07)
- b. Letter of Order to facilitate the peaceful means process based on restorative justice. (RJ-1)
- c. Summons to the parties, namely victims, community leaders and defendants who are detained/not detained and their families. (RJ-2)
- d. Letter of notification of settlement of cases outside the court based on restorative justice to investigators. (RJ-3)
- e. Note of opinion on peace efforts/process/implementation of peace agreement activities. (RJ-4)
- f. Reports on successful/accepted peace efforts. (RJ-5)
- g. Peace agreement. (RJ-7)

---

<sup>15</sup> Interview Result with Mr. Hendarsyah As Head Section of General Crime Rokan hulu District Attorney Office, pada 27 October 2022.



- h. Minutes of the peace process. (RJ-8)
- i. Report on peace process received. (RJ-9)
- j. Minutes of peace implementation. (RJ-10)
- k. Report on successful implementation of peace. (RJ-11)
- l. Letter of request for termination of prosecution based on restorative justice. (RJ-13)
- m. Decree on the termination of the prosecution of the chief prosecutor. (RJ-14)
- n. Notification of termination of prosecution based on restorative justice. (RJ-15)

Referring to the provisions of Article 4 RGA No. 15 Year 2020, the authority of the Public Prosecutor in terminating prosecution based on Restorative Justice is carried out by taking into account: (a) Victims Interests and other legal interests; (b) Avoiding negative stigma; (c) Avoidance of retaliation; (d) community response and harmony; and (e) decency, decency and public order.

In addition to the above, based on an interview with Mr Aarlon<sup>16</sup> as the Public Prosecutor of the Rokan Hulu District Attorney, said that: The Public Prosecutor in stopping prosecutions based on restorative justice is also carried out by considering: (a) subject, object, category and threat of crime; (b) the background of the commission of the crime; (c) level of disgrace; (d) losses or consequences arising from criminal acts; (e) costs and benefits of case handling; (f) restoration to its original state; and (g) there is reconciliation between the victim and the suspect. The existence of Perja No.15 of 2020 which gives public prosecutors the authority to stop prosecutions based on restorative justice is a breakthrough in solving criminal acts.

Hendarsyah<sup>17</sup> also added in the interview that "The settlement of criminal cases is usually carried out by the public prosecutor using a formal mechanism, namely through the judiciary which often does not satisfy both parties and even results in a buildup of cases that are protracted in their settlement. Several solutions that have surfaced are criminal settlements through non-formal mechanisms such as mediation which prioritize the principle of deliberation. Mediation is considered to be more beneficial to both parties and more oriented to substantial justice which aims to avoid the consequences of revenge between the perpetrator and the victim.

## 2. The Constrain of Rokan Hulu District Attorney's Office in Implementing Restorative Justice in Stopping Prosecutions And Efforts to Overcome Them

To analyze the effectiveness of law, The theory of legal effectiveness<sup>18</sup> according to Soerjono Soekanto is the most approachable way to resolve the

---

<sup>16</sup> Interview Result with Mr. Aarlon Marbun as the Public Prosecutor of the Rokan Hulu District Attorney, on October 27 2022.

<sup>17</sup> Interview Result with Mr. Hendarsyah As Head Section of General Crime Rokan hulu District Attorney Office, pada 27 October 2022.

<sup>18</sup> Julianto, Julianto, Rina Shahriyani Shahrullah, Rahmi Ayunda, and Robert Garry Hawidi. 2021. "Efektivitas Implementasi Kebijakan E-Litigasi Di Pengadilan Negeri Dan Pengadilan Agama Kota Batam, INDONESIA".

problems. In this theory, whether a law is effective or not is determined by 5 (five) factors, namely: 1) The legal basis ; 2) Law enforcement factors, namely the parties that form and apply the law; 3) Facilities that support law enforcement; 4) Community factors, namely the environment in which the law applies or is applied; 5) Cultural factors, namely as a result of work, creativity and taste based on human initiative in social life. The five factors above are closely related to each other, because they are the essence of law enforcement. In the first element, what determines the functioning of the written law properly or not depends on the rule of law itself.

According to Soerjono Soekanto the measure of effectiveness in the legal factor elements are<sup>19</sup>: 1) Existing regulations regarding certain areas of life are quite systematic; 2) Existing regulations regarding certain areas of life are quite synchronous, hierarchically and horizontally there is no conflict; 3) Qualitatively and quantitatively the regulations governing certain areas of life are sufficient; 4) Issuance of certain regulations is in accordance with existing juridical requirements.

The second element that determines the effectiveness of the written law is the law enforcement apparatus.<sup>20</sup> In this connection, it is desirable to have a reliable apparatus so that the apparatus can carry out its duties properly. Reliability in relation here includes professional skills and has good metal. Problems affecting the effectiveness of written law in terms of the apparatus will depend on the following: 1) To what extent officers are bound by existing regulations; 2) To what extent officers are allowed to give discretion; 3) What kind of example should officials give to the community; 4) To what extent is the degree of synchronization of assignments given to officers so as to provide firm boundaries to their authority.

In the third element, the availability of facilities in the form of facilities and infrastructure for implementing officials in carrying out their duties.<sup>21</sup> The facilities and infrastructure in question are infrastructure or facilities that are used as a tool to achieve legal effectiveness. In connection with the facilities and infrastructure referred to as this facility.

Fourth and Five, regarding the individual and culture play the main role in the implementation and measurement of the effectiveness of law. The elements mentioned above provide an understanding that the discipline and obedience of society depends on the motivation that appears internally. Internalization of this factor exists in each individual who is the smallest element of the social community. Therefore the most appropriate approach in this disciplinary relationship is through motivation that is instilled individually. In this case, the degree of community legal compliance becomes one of the parameters regarding the effectiveness or not of the

---

Jurnal Media Komunikasi Pendidikan Pancasila Dan Kewarganegaraan 3 (1), 1-13.

<https://ejournal2.undiksha.ac.id/index.php/JMPPPKn/article/view/224>.

<sup>19</sup> Soerjono Soekanto, Faktor-Faktor yang mempengaruhi Penegakan Hukum, PT Raja Grafindo Persada. Jakarta, 2008.

<sup>20</sup> Ibid

<sup>21</sup> Ahadi, Lalu M. Alwin. "Efektivitas Hukum Dalam Perspektif Filsafat Hukum: Relasi Urgensi Sosialisasi Terhadap Eksistensi Produk Hukum." Jurnal Usm Law Review 5, no. 1 (2022): 110-127.

law being enforced, while community compliance can be motivated by various causes, both arising from internal and external conditions. Indonesian people have a great tendency to interpret law and even identify it with officers (in this case law enforcers as individuals). One of the consequences is that the good and bad of the law is always associated with the pattern of behavior of law enforcers.

The theory of legal effectiveness put forward by Soerjono Soekanto is relevant to the theory put forward by Romli Atmasasmitan amely that the factors hindering the effectiveness of law enforcement do not only lie in the mental attitude of law enforcement officials (judges, prosecutors, police and legal advisers) but also in Factors of legal socialization that are often ignored are usually in the form of community factors, factors supporting facilities and cultural factors that exist in society.<sup>22</sup>

Analyzing about the effectiveness of the law means discussing the working power of the law in regulating and or forcing people to obey the law. The law can be effective if the factors that influence the law can function as well as possible. The effective measure of whether or not an applicable law can be seen from people's behavior. If a law or legislation achieves the desired goal, then the effectiveness of the law or legislation has been achieved.

The theory of effectiveness can be concluded that effectiveness is a measure that states how far the target (quantity, quality and time) has been achieved by management, in which the target has been determined beforehand. Effectiveness can be interpreted as a process of achieving a predetermined goal. A business or activity can be said to be effective if the business or activity has achieved its goals. If the goal in question is the goal of an agency, the process of achieving that goal is success in implementing programs or activities according to the authority, duties and functions of the agency.

The application of restorative justice by public prosecutors in the process of handling cases is a breakthrough as a form of regulatory reform for people who wish to obtain justice of the highest quality, but not through a formalistic, lengthy, rigid and inflexible and expensive criminal justice process.

In sum, the Constrains to the District Attorney Office in implementing a criminal case settlement system outside the court through a restorative approach and the efforts that must be made to overcome them, namely:

**a. Legal substance**

At present, there is already a provision in Article 8 paragraph (4) of the Judicial Powers Law which encourages prosecutors to always act based on the law by respecting religious norms, decency, decency and are obliged to explore and uphold human values that live in society and always maintain honor. and the dignity of their profession in carrying out their duties and authorities. However, because there are no rules regarding the prosecutor's authority to settle cases outside the court,

---

<sup>22</sup> Romli Atmasasmita, *Reformasi Hukum, Hak Asasi Manusia & Penegakan Hukum*, Mandar Maju, Bandung. 2001, Halaman 55.



these provisions cannot be applied as a basis for the implementation of restorative justice by public prosecutors.

**b. Legal structure apparatus**

The legal structure is the law enforcement apparatus and its institutions that drive the legal system as stipulated in the substance of the law. The legal structure in this case is the District Attorney Office and its apparatus, especially the prosecutor. If this legal structure is related to the prosecutor's obstacles in resolving cases outside the court through a restorative justice approach, then the main obstacle is that prosecutors and prosecutors have not been given the authority to do so.

In Rokan Hulu District Attorney Office itself, the challenges in the implementation of the Restorative Justice Resolution is the lackness of the case that involve Restorative Justice as settlement, due to the most of minor criminal case are settled in the investigation phase, so the Prosecutors need to be trained deeply in the mean time to make sure every prosecutor in Rokan Hulu Distrcit Attorneys are capable to implement the RGA No. 15 year 2020.

**c. Legal culture**

In summary, legal culture can be interpreted as community behavior related to law. In this case, what is meant by the community related to the law is the one who manages the settlement of criminal cases outside the court by the prosecutor through a restorative justice approach. If this legal culture is related to the settlement of cases outside the court, this does not seem to be too much of an obstacle for the District Attorney Office.

The obstacle for the Public Prosecutor (JPU) in resolving crimes using a restorative justice approach at the Rokan Hulu District Attorney's Office is that the completion time is quite short, namely only being given a maximum of 7 (seven) days. With such a short time, of course summoning victims, perpetrators of crimes, related community leaders, as well as waiting for recommendations from the Attorney General's Office takes a lot of time, so fast work is needed from the prosecutor so that efforts to settle cases through a restorative justice mechanism can be successful. Even though the meeting between the victim and the perpetrator has agreed and they want to make peace, the District Attorney Office must seek approval from the Attorney General's Office for General Crimes so that the implementation of the restoration justice approach can have legal force and the results of the meeting were carried out at the regional level (at the district attorney's office).

The Attorney General's Office will conduct a zoom meeting with the Rokan Hulu District Attorney and ask for a chronology of cases that have been resolved through a restorative justice mechanism. The Kejari Rokan Hulu must be able to present the reasons why the peace process

was carried out and these reasons must be accepted by the Attorney General's Office through the field of general crimes at the Attorney General's Office. If the reasons from the region cannot be accepted by the Attorney General's Office, then this process cannot be continued to obtain a decision letter to resolve the case through a restorative justice mechanism (Stipulation letter stopping the prosecution of the chief prosecutor. {RJ-14})

The Attorney General's Office through the Junior Attorney General in the field of general crimes did not see directly the cases in the area where the application was made via zoom earlier. For example, not seeing what the economic situation is like for the victim or perpetrator, what the community's response is like, and so on. Therefore, the presence of these factors makes restorative justice difficult to apply.

**d. External barriers**

Obstacles in meeting the interests of the parties are very likely to occur, considering the benchmarks used are very subjective, depending on the needs of each party, so that in practice there are several possibilities for the emergence of conflicts of interest, such as: a) If the perpetrator is unable to provide compensation or provide assistance to the victim, or the victim asks for compensation/compensation beyond the ability of the perpetrator to fulfill it; b) If the victim (or his family) does not need compensation or compensation, and prefers to punish the perpetrator; c) If there is coercion from the perpetrator to the victim in seeking peace; d) If the perpetrator is only a driver and an accident occurs as a result of an order from his employer; e) If the victim is more than one, on one side the victim is willing to accept compensation/compensation, but the victim on the other hand is not willing to accept it; f) The resolution process relies on the direct involvement of the people affected by the incident so it is possible for the process to be emotional.

**E. Conclusion**

Several law enforcement institutions in Indonesia, including the Supreme Court, Attorney General's Office, Police and Ministry of Law and Human Rights, have embraced Restorative Justice as a means of resolving minor criminal cases. The Chief Justice of the Supreme Court of the Republic of Indonesia, the Minister of Law and Human Rights, the Attorney General, and the Head of the Indonesian National Police signed a Joint Memorandum of Understanding in 2012. For a crime to be considered a minor crime, two conditions must be met. First, the crime committed must be punishable by a fine or imprisonment for no more than five years. Second, the crime is committed with the value of evidence or the value of losses incurred as a result of the crime of no more than 2.5 million rupiah.

A series of stages make up the criminal justice system in Indonesia, starting with preliminary investigation, police arrest and detention, prosecution by the prosecutor, examination/trial in court, and sentencing by the court (including imprisonment in a penitentiary). The Attorney General's Office issued Regulation of Attorney General Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice (hereinafter written RAG No. 15/2020). In accordance with this law, if the victim and the defendant have reached an amicable agreement, the Public Prosecutor may elect to discontinue prosecuting the accused in specific circumstances. An advancement in the resolution of criminal crimes is the establishment of RAG No. 15/2020, which grants the prosecutor discretion to halt proceedings based on restorative justice. Due to the fact that the majority of minor criminal cases are resolved during the investigation stage, the Rokan Hulu District Attorney faces difficulties implementing the Restorative Justice Resolution. Therefore, prosecutors must undergo extensive training in the interim to ensure that every prosecutor in the district office is able to do so.

## REFERENCES

- Ahadi, Lalu M. Alwin. "Efektivitas Hukum Dalam Perspektif Filsafat Hukum: Relasi Urgensi Sosialisasi Terhadap Eksistensi Produk Hukum." *Jurnal Usm Law Review* 5, no. 1 (2022): 110-127.
- Ambil Getah Karet Senilai Rp17 Ribuan, Samirin Dibui 2 Bulan" selengkapnya di sini: <https://www.cnnindonesia.com/nasional/20200116141042-12-465939/ambil-getah-karet-senilai-rp17-ribuan-samirin-dibui-2-bulan>., Accessed 20<sup>th</sup> July 2023
- Amiruddin, *Pengantar Metode Penelitian Hukum*, (Jakarta: PT. Raja Grafindo Persada, 2012)
- Huda, Muhammad Chairul, and M. H. S HI. *Metode Penelitian Hukum (Pendekatan Yuridis Sosiologis)*. The Mahfud Ridwan Institute, 2021.
- Hutauruk, Rufinus Hotmaulana. *Penanggulangan Kejahatan Korporasi Melalui Pendekatan Restoratif Suatu Terobosan Hukum*. Sinar Grafika, 2019.
- Interview Result with Mr. Aarlon Marbun as the Public Prosecutor of the Rokan Hulu District Attorney, on October 27 2022.
- Interview Result with Mr. Hendarsyah As Head Section of General Crime Rokan hulu District Attorney Office, pada 27 October 2022.
- Irabiah, Irabiah, Beni Suswanto, and Muhammad Ali Alala Mafing. "Penerapan Restorative Justice Pada Tingkat Penuntutan (Studi Kasus Di Kejaksaan Negeri Kotamobagu)." *Perspektif* 27, no. 2 (2022): 131-138.
- Jadidah, F. (2022). Kasus Nenek Minah Ditinjau Dari Perspektif Teori Hukum Positivisme. *Iblam Law Review*, 2(3), 129–142. <https://doi.org/10.52249/ilr.v2i3.98>
- Julianto, Julianto, Rina Shahriyani Shahrullah, Rahmi Ayunda, and Robert Garry Hawidi. 2021. "Efektivitas Implementasi Kebijakan E-Litigasi Di Pengadilan Negeri Dan Pengadilan Agama Kota Batam, INDONESIA". *Jurnal Media Komunikasi Pendidikan Pancasila Dan Kewarganegaraan* 3 (1), 1-13. <https://ejournal2.undiksha.ac.id/index.php/JMPPPKn/article/view/224>.
- Kristanto, Andri. "Kajian Peraturan Jaksa Agung Nomor 15 Tahun 2020 Tentang Penghentian Penuntutan Berdasarkan Keadilan Restoratif." *Lex Renaissance* 7, no. 1 (2022): 180-193.
- Kurniawan Tri Wibowo, *Hukum dan Keadilan (Peradilan yang Tidak Kunjung Adil)*, Depok: Papas Sinar Sinanti, 2020, hlm. 58.

- Mardjono Reksodiputro, *Hak Asasi Manusia dalam Sistem Peradilan Pidana*, Jakarta: Pusat Pelayanan Keadilan dan Pengabdian Hukum Universitas Indonesia, 1997, hlm. 85.
- Ratna Nurul Afiah, *Barang Bukti dalam Proses Pidana*, Jakarta: Sinar Grafika, 1998, hlm.13.
- Regulation of Attorney General No. 15 Year 2020
- Romli Atmasasmita, *Reformasi Hukum, Hak Asasi Manusia & Penegakan Hukum*, Mandar Maju, Bandung. 2001, Halaman 55.
- Soekanto, Soerjono. "Efektivitas Hukum dan Penerapan Sanksi." *Bandung: CV. Ramadja Karya* (1988).
- Soerjono Soekanto, *Faktor-Faktor yang mempengaruhi Penegakan Hukum*, PT Raja Grafindo Persada. Jakarta, 2008.
- Sunggono, Bambang. "Metode penelitian hukum." *Jakarta: Raja Grafindo Persada* (2003)
- Undang-Undang Nomor 11 Tahun 2021 Tentang Perubahan atas Undang-Undang Nomor 16 tahun 2004 tentang Kejaksaan Republik Indonesia.
- Yahya harahap, *Pembahasan Permasalahan dan Penerapan KUHAP (Penyidikan dan Penuntutan)*, Jakarta: Sinar Grafika, 2000, hlm. 90.