



Restorative Justice Approach as an Alternative Criminal Case Resolution in Realizing Effective and Efficient Justice

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| ARTICLE INFO | ABSTRACT |
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| <p>Keywords: <i>Restorative Justice; Criminal Cases; Effective and Efficient</i></p> <p>DOI: http://dx.doi.org/10.22437/jssh.v8i1.30038</p> <p>Received: December 9, 2024</p> <p>Reviewed: May 27, 2024</p> <p>Accepted: June 30, 2024</p> | <p><i>This research aims to find out how the regulation of restorative justice as an alternative in resolving effective and efficient criminal cases and to find out how the settlement of criminal cases through a restorative justice approach in realizing effective and efficient justice. For this reason, researchers are interested in conducting research with the title restorative justice approach as an alternative to criminal case settlement in realizing effective and efficient justice. This research is a normative juridical research. The results of the study found that the regulation of restorative justice is regulated internally in each law enforcement institution of the police, prosecutor's office and court. The orientation is no longer on punishment but shifts to restoring the original situation through peace efforts of the parties, both victims, perpetrators and communities affected by criminal acts. so that it can present an effective and efficient justice both in terms of time and costs incurred. Suggestions so that the settlement of criminal offenses with a restorative justice approach runs effectively and efficiently, it is necessary to equalize the perceptions of each law enforcement agency, both the police, prosecutors and courts regarding what criminal offenses can be resolved through a restorative justice approach and the time period given in resolving criminal offenses with a restorative justice approach and needs to be regulated in the form of a law.</i></p> |

1. Introduction

The imposition of criminal sanctions on violators must also pay attention to human values so that the decisions imposed are also beneficial for lawbreakers and can also foster the importance of maintaining human values in the association of community life. In the life of Indonesian society, which still upholds religious values and traditional law so that the resolution of violations prioritizes peace by deliberation in reaching consensus.

Legally formal in resolving a criminal case has been regulated through criminal procedural law, but in practice it is not uncommon to find repressive actions in the name of law enforcement. the existing punishment system has not provided a deterrent effect on criminal offenders, which occurs on the contrary, namely the overcapacity of correctional institutions and state detention centers in almost every region of Indonesia. The lack of supervision and the unbalanced number of officers with the number of prisoners make the goal of re-socializing

prisoners difficult to achieve, which seems to shift the function to become a school for prisoners.

One of the functions of criminal law is to maintain order in society in addition to protecting public and private interests. Criminal law also regulates prohibited matters and the legal consequences that will result if violated. In addition, the law is also designed to oversee changes that occur in society as a formal social control (Muhaimin, 2019). On the other hand, there are different perspectives by some law enforcement officials in enforcing a rule, more textual than contextual, making it inflexible, only prioritizing the legal aspect so that it does not pay attention to the existing legal relationship (Arianto, 2010). Rigid or inflexible laws cause complexity and various contradictions in people's lives, therefore an understanding of the law is needed that is accepted by the community in accordance with the ways and patterns of life of the community. In order for the existing rules to be accepted and adapted, it must be sought to explore the noble values that live and are recognized by the community (Imron, 2008).

The criminal justice system that prioritizes revenge against criminals is a classic school of criminal justice. The imposition of punishment is only aimed at criminals with the aim of creating a deterrent effect, so that the perpetrators do not commit new crimes after serving their sentences. The perspective of the criminal system described above is a perspective based on the classical absolute theory. The absolute theory, or revenge theory, which is the basis of the classical school, consists of subjective revenge and objective revenge. Subjective revenge is revenge for mistakes, revenge for the perpetrator's shame, objective revenge is revenge for actions, for the actions committed by the perpetrator (Hiariej, 2014).

The public's perception of the handling of criminal cases and the imposition of punishment has already been procedurally and formally legal, thus indirectly making the law work inflexibly, this mindset and perspective must be corrected and changed in the community must be reminded that there are still other events that can be taken in resolving cases, especially in this case criminal cases.

Furthermore, law enforcement officials who are bound by laws and regulations are only focused on textual and not contextual, in handling a criminal offense plus the public perception of those who deal with law enforcement officials have been confirmed guilty and even convicted before a valid judge's verdict through the court becomes a separate problem in handling criminal cases so that there is a buildup of cases and justice becomes ineffective and efficient (Wahyudhi, 2022).

In its development, the success of the criminal justice system by imposing punishment on offenders does not necessarily have a positive influence on law enforcement. In many cases, it is not uncommon for the community to want the settlement process to be resolved with a deliberative approach, which is currently better known as restorative justice. In the concept of restorative justice, it prioritizes the repair and restoration of the situation as it was before the criminal event occurred, in contrast to the handling of cases whose orientation is retaliation in the retributive concept (Prayitno, 2012).

A shift in perspective in handling criminal cases is a must as the development of science itself, including in this case the settlement of criminal cases. From the description above, the researcher is interested in conducting research with the title "Restorative Justice Approach as an Alternative to Criminal Case Resolution in Realizing Effective and Efficient Justice".

2. Research Methodology

The research used is normative juridical research. Normative legal research by studying sources or written materials. In this study the approach that researchers use is a statutory approach and a concept approach. The data obtained is analyzed qualitatively, namely the data available primary data and secondary data that has been collected, then the results are presented in descriptive form.

3. Discussion

3.1. Regulation of Restorative Justice as an Alternative to Resolving Criminal Cases in Realizing Effective and Efficient Criminal Justice

Reconciliation and restoration of circumstances are the hallmarks of restorative justice which provides a balanced space for victims, perpetrators and other related parties to jointly seek the best solution as a result of a criminal act. The emergence of the idea of restorative justice is a form of dissatisfaction with the operation of the current criminal justice system which is considered unable to provide a sense of justice for those seeking justice.

Currently, restorative justice arrangements are still scattered in several criminal justice sub-systems starting from the police, prosecutor's office and court levels. At the police level, settlement through restorative justice is regulated through Police Regulation (Perpol) Number 8 of 2021 concerning Handling Crimes Based on Restorative Justice; at the prosecutor's office level it is regulated through Prosecutor's Office Regulation (Perja) Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice; and at the court level it is regulated through the Decree of the Director General of the General Justice Agency (Badilum) of the Supreme Court of the Republic of Indonesia Number 1691/DJU/SK/PS.00 /12/2020 concerning the Implementation of Guidelines for the Application of Restorative Justice. /12/2020 concerning the Implementation of Restorative Justice Implementation Guidelines.

In Police Regulation Number 8 of 2021 concerning Handling Crimes Based on Restorative Justice. Restorative justice is defined as a resolution of criminal acts by involving perpetrators, victims, families of perpetrators, families of victims, community leaders, religious leaders, traditional leaders or stakeholders to jointly seek a fair resolution through peace by emphasizing the restoration of the original state. To reach a restorative justice agreement, there are several requirements that must be met in the handling mechanism based on restorative justice.

The settlement of criminal offenses through a restorative justice approach based on Perkap must meet general requirements and special requirements, in general terms of handling criminal offenses based on restorative justice in the activities of organizing criminal investigation or investigation functions. While the special requirements only apply to the handling of criminal offenses based on restorative justice for investigation or investigation activities. (Article 3 paragraphs (2) and (3) of Police Regulation No. 8 of 2021).

The general requirements consist of material and formal requirements, which are as follows:

1. The material requirements of Article 5 of Police Regulation No. 8 of 2021 include:
 - a. does not cause unrest and/or rejection from the community
 - b. does not have an impact on social conflict;
 - c. there is no possibility of dividing the nation;

- d. acts of radicalism and separatism;
 - e. is not a repeat criminal offense of the perpetrator based on a court decision; and
 - f. is not a crime against state security, criminal offense
 - g. against the life of the person, terrorism crimes, and corruption crimes.
2. Formal requirements As Article 6 of Police Regulation No. 8 of 2021, confirms that the formal requirements, among others:
- a. Peace between the parties with a signed agreement except in the case of drug crimes;
 - b. To fulfill the rights and obligations of the victim as the responsibility of the perpetrator, it can be carried out in the form of confiscation of goods, compensation, reimbursement of costs arising from criminal acts, and compensation for losses due to criminal acts as evidenced by a certificate signed by the victim.

Furthermore, Article 6 paragraph (3) of Police Regulation Number 8 of 2021 explains the purpose of fulfilling the rights of victims above, which can be in the form of returning goods, compensating losses, compensating costs incurred as a result of criminal acts, and/or compensating for damage caused by these criminal acts.

In addition, there are additional requirements for information and electronic transaction crimes, drugs and traffic. (Article 7 of Police Regulation Number 8 of 2021). The additional requirements for information and electronic transaction crimes include at least:

- a) Perpetrators of criminal acts of information and electronic transactions that disseminate illegal content;
- b) The perpetrator is willing to delete the uploaded content;
- c) The perpetrator submits an apology through a video uploaded on social media accompanied by a request to delete the content that has spread. (Article 8 of Police Regulation Number 8 of 2021).

Specific requirements for drug offenses include:

- a) Drug addicts and victims of drug abuse who apply for rehabilitation;
- b) When caught red-handed:
 - 1) Evidence of drugs used for 1 (one) day with the classification of narcotics and psychotropic drugs in accordance with the provisions of laws and regulations is found; and
 - 2) No evidence of drug crime is found, but the urine test shows positive for drugs;
 - a) Not involved in a network of drug crimes, dealers and/or bookies;
 - b) Has been assessed by an integrated assessment team; and
 - c) The perpetrator is willing to cooperate with Police investigators to conduct direct investigations. (Article 9 of Police Regulation Number 8 of 2021).

Specific requirements for traffic offenses include:

- a) A traffic accident caused by driving a motor vehicle in a dangerous manner and condition resulting in material loss and/or minor injuries; or
- b) Traffic accidents on the road due to negligence resulting in human casualties and/or property damage. (Article 9 of Police Regulation Number 8 of 2021).

Based on the provisions of these articles, it can be seen that there are conditions that must be met if a restorative justice approach is to be used, there is a desire by the perpetrator/victim's family or other related parties to make peace which will be facilitated by the police, not a repetition of the crime, the victim's rights have been fulfilled, and the

application of restorative justice does not receive rejection from the community, and not for certain crimes.

At the prosecutorial level, restorative justice is regulated through Prosecutor's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. In this Prosecutor's Regulation, restorative justice is defined as 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 restoration to the original state, and not retaliation.

To be able to stop prosecution based on restorative justice, there are conditions that must be met and the public prosecutor must also pay attention:

- a) The interests of the victim and the interests of the law are protected;
- b) Avoidance of negative stigma;
- c) Avoidance of retaliation;
- d) Community response and harmony; and
- e) Decency, decency and public order. (Article 4 Paragraph (1) Perja Number 15 of 2020).

Furthermore, other considerations that must be made to stop prosecution based on restorative justice are:

- a) subject, object, category, and threat of criminal offense;
- b) the background of the criminal offense;
- c) the degree of harm;
- d) the loss or consequences caused by the criminal offense;
- e) cost and benefit of handling the case;
- f) restoration to the original state; and
- g) the existence of peace between the Victim and the Suspect. (Article 4 Paragraph (1) Perja Number 15 of 2020).

A criminal case may be closed by law and the prosecution may be discontinued based on Restorative Justice if the following conditions are met:

- a) the suspect is a firsttime offender;
- b) the criminal offense is only punishable by a fine or punishable by imprisonment of not more than 5 (five) years; and
- c) the criminal offense is committed with the value of evidence or the value of losses incurred as a result of the criminal offense not exceeding Rp.2,500,000,- (two million five hundred thousand rupiah). (Article 5 Paragraph (1) Perja Number 15 of 2020).

In cases related to property crimes, there are circumstances or criteria that are casuistic in nature which, according to the public prosecutor with the approval of the superior, can be resolved with restorative justice while still paying attention to the existing conditions, as well as for crimes against persons, bodies, lives and freedoms of persons and negligence.

Apart from the 3 (three) conditions mentioned in Article 5 paragraph (1) of Prosecutor's Regulation Number 15 of 2020, the implementation of restorative justice must also fulfill several other conditions as stated in Article 5 paragraph (6) of Prosecutor's Regulation Number 15 of 2020 which reads:

- a. there has been a restoration to the original state carried out by the suspect by:
 - 1) returning the goods obtained from the criminal offense to the victim;

- 2) compensating the loss of the victim;
 - 3) reimbursing the costs incurred as a result of the criminal offense; and/or
 - 4) repairing the damage caused by the criminal offense.
- b. there has been a peace agreement between the victim and the suspect; and
- c. the community responds positively"

In this AGO regulation, there are exceptions for criminal offenses that cannot be carried out restorative justice efforts, including criminal offenses against state security, presidential dignity, criminal offenses punishable by a minimum criminal threat, narcotics crimes, environmental crimes and criminal offenses committed by corporations.

If we look at the requirements and types of criminal acts that can be resolved through restorative justice in the Perja, it is more flexible and not rigidly applied in assessing a criminal offense that occurred. It is known that the purpose of restorative justice does not focus on retaliation for the perpetrator of the crime, but rather seeks a fair settlement by emphasizing restoration to the original state.

The balance of protection of victims and perpetrators of criminal acts is a legal need of society and is a mechanism that must be built in the implementation of prosecutorial authority and reform of the criminal justice system, through independent case handling policies for justice based on law and conscience, including prosecution using a restorative justice approach that is carried out professionally and responsibly.

At the court level, restorative justice is carried out based on the Decree of the Director General of the General Justice Agency of the Supreme Court of Indonesia Number 1691/DJU/SK/PS.00/12/2020 concerning the Implementation of Guidelines for the Application of Restorative Justice on December 22, 2020. In the Appendix to this Decree, it is stated that restorative justice is a settlement of criminal cases by involving perpetrators, victims, families of perpetrators/victims, and other related parties to jointly seek a fair settlement by emphasizing.

The purpose of the issuance of this technical guideline is to optimize the application of Perma, SEMA, or Decree of the Chief Justice of the Supreme Court which regulates the implementation of restorative justice in court. In addition, it is also to reform the criminal justice system which still prioritizes imprisonment in judicial decisions. The development of the punishment system no longer relies on the perpetrator but rather leads to aligning the interests of victim recovery and the accountability of the perpetrator.

With this technical guideline, it is easier for courts in the general judicial environment to implement restorative justice, thus increasing the application of restorative justice and achieving effective and efficient justice with due regard to balanced justice. This guideline is used in minor crimes, cases of women in conflict with the law, children's cases and narcotics cases.

3.2. Restorative Justice Approach as an Alternative to Resolving Criminal Cases in Realizing Effective and Efficient Criminal Justice

In its current development, law enforcement officials have made various innovations in handling criminal offenses, one of which is by accommodating the restorative justice approach, this is a response to efforts to restore the level of public trust in the operation of the criminal justice system. The settlement of criminal offenses through the restorative justice approach has been accommodated in each sub-system of criminal justice through internal regulations in each law enforcement agency. At the police level,

this is done with the issuance of the Indonesian National Police Regulation Number 08 of 2021 concerning Handling Crimes based on Restorative Justice. The police regulation explains that the resolution of a criminal offense first prioritizes recovery and balance of the interests of victims, perpetrators and affected communities so that it is no longer oriented towards a punishment.

In the Perkap, the police institution is given the authority to resolve criminal cases out of court through a restorative justice approach by responsibly terminating investigations and investigations, the implementation is carried out by making a request to the immediate superior, as regulated in Article 15 of Perkap Number 08 of 2021 concerning Handling Crimes based on Restorative Justice which states:

- 1) Termination of Investigation or Criminal Investigation as referred to in Article 2 paragraph (5) shall be conducted by submitting a written request to:
 - a. Head of the National Police Criminal Investigation Agency, for the National Police Headquarters level;
 - b. Head of the Regional Police, for the Regional Police level; or
 - c. Head of the Resort Police, for the Resort Police and Sector Police levels."
- 2) The application letter as referred to above, is made by the perpetrator, victim, family of the perpetrator, family of the victim, or other related parties.
- 3) The application letter is equipped with a document of a statement of peace and evidence that the victim's rights have been restored, however, the written application is excluded for Drug Crimes.

The fulfillment of the conditions in the provisions of the Perkap is the basis and consideration for investigators and investigators to be able to stop cases through restorative justice. So that the orientation is no longer retaliation but a balance towards the protection of victims, perpetrators and the community affected by a criminal act and seeking to restore material and immaterial losses to victims of criminal acts by prioritizing the restoration of the original situation.

The restorative justice approach also aims to improve effective and efficient justice through a peace process between the victim and the perpetrator by way of deliberation for consensus without intimidation, and carried out voluntarily facilitated by investigators and/or investigators. In the event that a peace process is reached, the victim and perpetrator make a written peace agreement before the investigator and/or investigator, which can be accompanied by the fulfillment of certain obligations or without the fulfillment of certain obligations. With the peace effort, the case is closed by law at the investigation stage by issuing an Order to Discontinue Investigation (SP3).

If there is no agreement in the peace process or the obligations are not carried out in accordance with the memorandum of peace agreement, the investigator and/or investigator have the right to:

- a) include the failure of the peace process in the official report;
- b) forward the case file to the public prosecutor.

Thus the investigation process is still carried out as stipulated in the Criminal Procedure Code, when referring to Perkap Number 6 of 2019 concerning Criminal Investigation. In the investigation stage, restorative justice efforts can be carried out if they have fulfilled the material and formal requirements and the time given to the reporter/victim,

and the reported party is no later than 7 (seven) days after the issuance of the investigation commencement order.

If more than 7 (seven) days after the issuance of the investigation warrant, a suspect determination letter is immediately sent with an attachment to the previous investigation warrant. If the file has not been submitted to the Public Prosecutor within 30 (thirty) days the Investigator is obliged to submit case developments by attaching an investigation warrant. The existence of a peace agreement between the victims, perpetrators and the community and the fulfillment of victims' rights is the basis for the Police to stop the investigation and investigation by first conducting a special case title to be resolved with restorative justice, thus justice, benefit and legal certainty can be realized.

Furthermore, at the Prosecutor's Office level, case resolution with restorative justice is regulated through Government Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. The form of settlement is carried out by emphasizing the restoration of the original situation and the balance of protection for victims and perpetrators and the orientation is not retaliation as a form of exercising prosecutorial authority and reforming the criminal justice system by taking into account the principles of justice, public interest, proportionality, punishment as a last resort and fast simple and low cost (Article 2 of Regulation 15 of 2020).

The Prosecutor's Office as a government institution that exercises state power in the field of prosecution must be able to realize legal certainty, legal order, truth and based on religious norms and decency and must explore human values, laws and values that live in society.

The use of Perja as the basis for resolving criminal cases at the prosecutor's office level must pay attention to the principles of justice, public interest, proportionality, punishment as a last resort, and fast, simple, and low cost. In addition, prosecutors have special authority to close cases related to legal interests, namely the existence of out-of-court case settlement through restoring the situation to its original state, one of which is through a restorative justice approach.

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The restorative justice approach is carried out by the Public Prosecutor by first offering peace efforts to the victim and suspect, this must be done without pressure, coercion and intimidation, carried out at the time of handing over responsibility for the suspect and evidence (stage two). (Article 7 Paragraphs (1), (2) and (3) of Regulation No. 15 of 2020).

For the purpose of peacemaking, the Public Prosecutor shall summon the Victim legally and properly by stating the reason for the summons. If necessary, the peacemaking efforts may involve the families of the victim and suspect, community leaders or representatives, and other related parties by informing them of the purpose and objectives as well as the rights and obligations of the victim and suspect in the peacemaking efforts, including the right to refuse the peacemaking efforts. (Article 8 Paragraphs (1), (2) and (3) of Regulation No. 15 of 2020).

In the event that the peace effort is accepted by the victim and suspect, the peace process will continue. After the peace effort is accepted by the victim and suspect, the Public Prosecutor makes a report on the accepted peace effort to the Head of the District Prosecutor's Office or Branch of the Head of the District Prosecutor's Office to be forwarded to the Head of the High Prosecutor's Office. (Article 8 Paragraphs (4) and (5) Perja No. 15 of 2020).

In the event that a peace effort is rejected by the Victim and/or Suspect, the Public Prosecutor shall state the failure of the peace effort in the official report, make a memorandum of opinion that the case be submitted to the court by stating the reasons and submit the case file to the court. (Article 8 Paragraph (7) Perja No 15 of 2020). The peace process is carried out voluntarily, by deliberation for consensus, without pressure, coercion, and intimidation. In the peace process the Public Prosecutor acts as a facilitator The Public Prosecutor has no interest or relationship with the case, the Victim, or the Suspect, either personally or professionally, directly or indirectly. (Article 9 Paragraphs (1), (2) and (3) of Regulation No. 15 of 2020).

The peace process is carried out at the Prosecutor's Office unless there are conditions or circumstances that are not possible for reasons of security, health, or geographical conditions, the peace process can be carried out at a government office or other agreed place with an order from the Head of the District Prosecutor's Branch or the Head of the District Prosecutor's Office. The peace process and fulfillment of obligations shall be carried out within a maximum of 14 (fourteen) days from the handover of responsibility for the suspect and evidence (stage two). (Article 9 Paragraphs (4) and (5) Perja No. 15 of 2020).

In the event that a peace process is reached, the victim and the suspect make a written peace agreement in the presence of the Public Prosecutor. The peace agreement is in the form of an agreement to reconcile accompanied by the fulfillment of certain obligations; or an agreement to reconcile without the fulfillment of certain obligations. (Article 10 Paragraphs (1) and (2) of Regulation No. 15 of 2020).

The peace agreement is signed by the victim, suspect, and 2 (two) witnesses with the knowledge of the Public Prosecutor. In the event that the peace agreement is accompanied by the fulfillment of obligations, the Public Prosecutor shall draw up minutes of the peace agreement and memorandum of opinion after the fulfillment of obligations. In the event of a peace agreement without the fulfillment of obligations, the Public Prosecutor shall draw up minutes of the peace agreement and memorandum of opinion. (Article 10 Paragraphs (3), (4) and (5) of Regulation No. 15 of 2020).

In the event that the peace agreement is unsuccessful or the fulfillment of obligations is not carried out in accordance with the peace agreement, the Public Prosecutor shall state the failure to reach a peace agreement in the official report, make a memorandum of opinion that the case be submitted to the court by stating the reasons; and submit the case file to the court. (Article 10 Paragraph (6) Perja No 15 of 2020).

If the peace agreement is approved by the Head of the High Prosecutor's Office, the settlement of criminal cases with a restorative approach will be followed up by the Head of the District Prosecutor's Office by issuing a decree of termination of prosecution since the approval is received, but otherwise in the event that the Head of the High Prosecutor's Office rejects the termination of prosecution based on Restorative Justice, the Public Prosecutor submits the case file to the court.

The Public Prosecutor can terminate the peace process if it is known that there is pressure and intimidation against the victim, suspect, or other parties, then it is written in the official report accompanied by the reasons for terminating the peace process, after which the case file is submitted to the court. If the process of resolving a criminal case using a restorative justice approach is successful and the suspect is detained, the Public Prosecutor shall immediately release the suspect after a Decree of Termination of Prosecution is issued with the minutes of the proceedings.

Meanwhile, the implementation of restorative justice in the courts is carried out based on the Decree of the Director General of the General Justice Agency of the Supreme Court of Indonesia Number 1691/DJU/SK/PS.00/12/2020 concerning the Implementation of Guidelines for the Implementation of Restorative Justice. It serves as a guideline for district court judges to implement restorative justice, the implementation of which is supervised and monitored by the president of the high court.

This restorative justice approach is in line with the principles of the exercise of judicial power: simple, speedy and low-cost justice. This principle is explicitly stated in Article 2 paragraph (4) of Law No. 48/2009 on Judicial Power. Simple means that the examination and settlement of cases is carried out in an efficient and effective manner. The principle of speed, a universal principle, relates to a settlement time that is not protracted. This fast principle is famous for the adage justice delayed justice denied, meaning that a slow judicial process will not provide justice to the parties. The principle of low cost means that the cost of cases can be afforded by the community.

As an alternative to resolving criminal cases, which in the mechanism of judicial procedures focuses on punishment, restorative justice emphasizes the process of dialogue and mediation involving the perpetrator, victim, family of the perpetrator/victim and other related parties to jointly create an agreement on a fair and balanced settlement of criminal cases for both victims and perpetrators by prioritizing restoring the original situation and restoring good relations in the community.

Settlement efforts with a restorative justice approach can be carried out provided that peace has been initiated between the perpetrator and, the victim and relevant community leaders who are litigating with or without compensation, when the judge opens the trial first reads the indictment note and asks the opinion of the defendant and the victim, then the judge makes peace efforts.

If the peace effort is successful then the parties make a peace agreement, then it is signed by the defendant, victim, and related parties and the peace agreement is included in the consideration of the judge's decision. However, if there is no agreement then the single judge continues the examination process. During the trial process, the judge continues to seek peace between the parties by prioritizing restorative justice in his decision, this does not apply to repetition of criminal acts.

To run an effective and efficient simple court, the values and sense of justice in society are one of the important aspects that must be considered by judges, as stated in the law that judges and constitutional judges are obliged to explore, follow, and understand the values of law and the sense of justice that lives in society ". (Article 5 of Law No. 48/2009 on Judicial Power. As the organizer of judicial power, judges must be able to answer public justice by exploring the values that live in society to present decisions that are acceptable to those seeking justice.

4. Conclusion

Regulations regarding case handling through a restorative justice approach are currently still regulated internally in each law enforcement agency at the police level based on Police Regulation (Perpol) Number 8 of 2021 concerning Handling Crimes Based on Restorative Justice, at the Prosecutor's Office level through Prosecutor's Regulation (Perja) Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, while at the Court level it is regulated by Decree of the Director General of the General Justice Agency (Badilum) of the Supreme Court of Indonesia Number 1691/DJU/SK/PS.00/12/2020 concerning the Implementation of Guidelines for the Application of Restorative Justice. Which is the basis for law enforcement officials to provide effective and efficient justice. The resolution of criminal acts using a restorative justice approach in every law enforcement institution, be it the police, prosecutors and courts, the orientation is no longer on punishment but shifts to restoring the original situation through peace efforts of the parties, both victims, perpetrators and communities affected by criminal acts so that harmonious relations will be achieved again in the community.

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