



Examining the Urgency of Restorative Justice: The Indonesian Attorney General's Office and the Fight Against Corruption

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Abstract— The legal system in Indonesia adheres to a comprehensive framework regulated by Law Number 8 of 1981, which specifically addresses the procedures pertaining to criminal law inside the nation. The Indonesian Office of the Attorney General plays a crucial part in the criminal justice system and is accountable for essential duties such as prosecuting and ensuring justice is served. Recently, there has been a noticeable shift towards a more progressive legal approach that prioritizes restorative justice. The trend is evident in Regulation Number 15 of 2020, which outlines the specific conditions for concluding legal procedures by implementing the concepts of restorative justice. However, there are challenges in implementing this strategy, specifically regarding discrepancies between the Office of the Attorney General and the police in adhering to restorative justice principles. This paper employs a doctrinal legal research technique to comprehensively examine these concerns. The study reveals discrepancies in the approach and deployment of restorative justice between the Office of the Attorney General and the police. Furthermore, disparities in the results of cases raise issues regarding the extent of collaboration between investigators and public prosecutors. The proposed steps to address these challenges entail enhancing the policies that regulate restorative justice inside the Attorney General's Office. These methods encompass the reduction of case constraints and the enhancement of integration between investigators and public prosecutors. The primary goal is to establish an efficient and effective system of restorative justice in Indonesia that aligns with societal objectives, ensuring fairness and justice within the legal framework.

Keywords—Attorney General's Office; Restorative Justice; Urgency.

I. INTRODUCTION

Criminal law is an integral part of a system of rules. The field of criminal law is extensive, encompassing multiple interconnected components.[1] Criminal law is regulated by the state as a component of public law regulation. The resolution of criminal cases in Indonesia adheres to a predetermined sequence of steps, as specified in Law Number 8 of 1981, which refers to the Indonesian Criminal Procedure Law.[2] This legislation functions as a comprehensive framework for the implementation of Indonesia's criminal justice system, encompassing the identification of authorized officials or institutions and delineating their specific responsibilities and powers. The Indonesian criminal justice system comprises four primary elements: the police, who function as investigators; the Attorney General's Office, which serves as the public prosecution; the courts, which are accountable for adjudicating and rendering decisions on cases; and correctional institutions, which prioritize the rehabilitation of offenders.[3] The Indonesian Attorney General's Office, along with law enforcement authorities such as the police, prosecutors, and courts, are responsible for carrying out law enforcement activities. One of the key roles of the Office of the Attorney General is to make decisions regarding

the prosecution and sentencing of individuals through indictment and prosecution in the criminal justice system. The Republic of Indonesia Office of the Attorney General is governed by Law Number 16 of 2004, which establishes its existence and grants authority to prosecutors as public prosecutors. The Office of the Attorney General frequently faces criticism in the realm of law enforcement and deals with matters pertaining to justice within society.

The public currently expects law enforcement that is both formal-positivist and responsive to societal requirements. The reorientation, as articulated by Prof. Satjipto Rahardjo in the concept of 'Progressive Law', advocates for legal systems that are both more compassionate and substantial.[4] Law enforcement institutions, such as the Attorney General's Office, should address these needs by taking a comprehensive and nuanced approach. In order to achieve fair law enforcement, it is important for them to depend on legal formalities and employ both case-based and conceptual approaches. In order to advance, it is necessary to shift our inflexible comprehension of legal positivism by giving precedence to the concepts of justice and morality, while still maintaining adherence to relevant legal principles. Law enforcement encompasses more than mere retribution; it also involves the process of recuperating and reinstating societal order.

Regulation Number 15 of 2020, released by the Indonesian Office of the Attorney General on July 22, 2020, marks a significant advancement in the implementation of restorative justice. This regulation aims to prioritize a more progressive approach to law enforcement.[5] This concept involves the participation of perpetrators, victims, families, and other relevant individuals in the pursuit of a fair resolution that emphasizes healing rather than retaliation. As per criminal procedural legislation, it is not necessary for all law enforcement cases to conclude in court. The prosecutor may choose to stop prosecution based on criteria such as insufficient evidence, non-criminal activities, or particular circumstances such as the death of the accused or a valid prescription. While not specifically addressed in the legislation, the decision to end prosecution through restorative justice demonstrates the legal progression that aligns with changes in society. Regulation Number 15 of 2020 establishes precise criteria for the discontinuation of legal proceedings through restorative justice. These criteria encompass factors such as the type of offense committed, the reparation provided to the victim, the reconciliation between the victim and the perpetrator, and the favorable reaction from the community.

The Indonesian Office of the Attorney General has introduced a regulation that allows for the termination of prosecutions through the use of restorative justice. This regulation acts as the guiding principle for the office in executing its responsibilities within the legal system.[6] Law enforcement officials anticipate that prosecutors will give priority to the principles of justice and moral responsibility within the legal system. We anticipate that the efforts of this legal framework will cultivate a forward-thinking legal perspective that is generally embraced by society. However, the Indonesian Office of the Attorney General faces various problems in implementing restorative justice, especially with the conditions specified in Regulation 15 of 2020. These requirements are perceived as hindering the implementation of restorative justice and contradicting its intended objective. While there is a direct connection between victim healing and specific criminal behaviors, there are instances where sanctions exceed the prescribed limit. Furthermore, the imbalance in the number of restorative justice cases handled by the Office of the Attorney General compared to the police creates a challenge for law enforcement, which has the potential to undercut the admirable objectives of restorative justice. Hence, it is crucial for the Indonesian Office of the Attorney General to do research in order to create more efficient technical regulations that can enable the successful execution of restorative justice. This would guarantee the achievement of crucial legal certainty, fairness, and advantages.

II. LITERATURE REVIEW

A. *Indonesian Office of the Attorney General*

According to Law Number 16 of 2004, as revised by Law Number 11 of 2021, the Office of the Attorney General of the Republic of Indonesia is an agency entrusted with the responsibility of conducting prosecutions and exercising other legal powers.[7] The prosecutor assumes a vital part in the criminal justice system, as they are responsible for executing responsibilities, functions, and authorities. According to Article 1, paragraph (1) of the Attorney General's Law, prosecutors are granted the power to act as public prosecutors and enforce court rulings, as well as carry out additional duties specified by law, such as serving as State Attorneys and conducting confidential criminal investigations. As the controller of the case process, known as *Dominus Litis*, the Office of the Attorney General decides whether to initiate legal proceedings based on valid evidence in accordance with the Criminal Procedure Law. The Office of the Attorney General is also tasked with executing criminal judgments (*executive ambrenaar*). The Office of the Attorney General must maintain independence from the government and other external forces in order to safeguard the integrity and professionalism of prosecutors while fulfilling its responsibilities and exercising its powers. The responsibilities of the Attorney General's Office, as stipulated in the Attorney General's Law, encompass the prosecution of cases, enforcement of court rulings, oversight of the execution of criminal judgments, investigation of specific criminal acts, legal research, and compilation of criminal data.[8] The Office of the Attorney General is essential to the criminal

justice system since it works closely with other law enforcement organizations and provides legal counsel to government institutions. Within the realm of law enforcement, the primary emphasis lies on adopting a comprehensive strategy and comprehending the principles of justice in order to establish a just and equitable criminal justice system. This arrangement entails the utilization of substantive criminal law, procedural criminal law, and enforcement law in efforts aimed at prevention, repression, and remedy. Within this framework, safeguarding human rights emerges as an essential tenet, requiring law enforcement that is independent, responsible, and upholds the rights of individuals without bias. Hence, effective law enforcement endeavors necessitate a methodical approach that involves the seamless integration of all components within the criminal justice system to safeguard individual rights and uphold justice throughout society.

B. Restorative Justice in Indonesia

The regulation governing Restorative Justice in Indonesia is outlined in the Attorney General's Regulation Number 15 of 2020, which deals with the termination of prosecution through the use of Restorative Justice.[9] This legislation serves as the legislative foundation that regulates the Restorative Justice process in Indonesia. The theory of Restorative Justice places emphasis on the process of restoring and reconciling the offender, victim, and community, rather than solely focusing on punishing the criminal. This strategy seeks to tackle the psychological and social consequences of criminal acts, foster genuine accountability, and restore broken relationships. In Indonesia, the application of Restorative Justice entails a mediation procedure overseen by the Office of the Attorney General or other authorized organizations, which facilitates communication between the offender and the victim. This mediation aims to facilitate a constructive discourse between all parties involved, enabling them to openly communicate the consequences of the illegal conduct and ultimately come to a mutually beneficial agreement that promotes healing and reconciliation.

Nevertheless, there are further areas that need improvement within the Restorative Justice system in Indonesia. A limitation exists in the specific conditions under which the Attorney General's Regulation can be applied, which encompasses offenses that are solely subject to fines or a maximum incarceration period of five years. This constraint may restrict the variety of cases that are appropriate for Restorative Justice.[10] Furthermore, the disparity in the number of Restorative Justice efforts implemented by the Office of the Attorney General and the Police has the potential to hinder the overall efficacy of law enforcement. Restorative Justice, however, offers a multitude of advantages. This approach provides victims with the opportunity to actively participate in the resolution of their cases, thereby promoting enhanced psychological and social recovery. Moreover, Restorative Justice can alleviate the burden on the criminal justice system by resolving matters outside of the court system, so enhancing the efficiency and effectiveness of law enforcement. In order to achieve enhanced justice, recovery, and reconciliation for all individuals involved in the legal process, it is essential to possess a thorough understanding of the regulation, philosophy, implementation, as well as the strengths and limits of the Restorative Justice system in Indonesia. By implementing this approach, we may enhance and progress this methodology even further.

C. Challenges in Combating Corruption

Challenges in combating corruption in Indonesia are multifaceted and persistent. One significant challenge is the deep-rooted nature of corruption within various levels of government and society, leading to entrenched corrupt practices and networks.[11] Additionally, the lack of effective law enforcement mechanisms, including inadequate investigation and prosecution of corruption cases, contributes to the impunity enjoyed by corrupt actors. Moreover, corruption often intersects with other systemic issues such as weak governance, political interference, and judicial inefficiency, further complicating anti-corruption efforts. The complex financial transactions involved in corrupt practices, including money laundering and illicit financial flows, pose substantial obstacles to detection and prosecution.[12]

Moreover, the widespread existence of bureaucratic procedures and regulatory gaps enables corrupt practices, while inadequate transparency and accountability measures impede successful anti-corruption endeavors. The prevalence of impunity and the societal tolerance of corruption further erode public trust and confidence in efforts to combat corruption. To tackle these difficulties, it is necessary to implement a comprehensive and well-coordinated approach. This includes bolstering legislative frameworks, improving law enforcement capabilities, encouraging openness and accountability, and cultivating a culture of integrity and ethics in both government institutions and society as a whole. Moreover, the importance of global cooperation and teamwork cannot be overstated when it comes to battling cross-border corruption and reclaiming misappropriated funds.

III. METHOD

This research employs a doctrinal legal research method, focusing on the study of law based on established doctrines. It adopts a statutory approach, examining legal rules as its central theme.[13] Additionally, a

conceptual approach is utilized to explore expert opinions relevant to the research topic. The research relies on a variety of secondary legal materials, sourced from literature studies, including laws, books, documents, articles, and other legal literature. The data consists of both primary legal materials, such as constitutional laws and statutes, and secondary legal materials, such as legal commentaries, case law, and analyses. The data collection technique involves an inventory of secondary data through library research. The analysis of legal materials employs deductive logic, where general rules are applied to specific instances to conclude. This method involves using syllogisms, with central premises representing general rules, minor premises reflecting specific facts, and conclusions deriving from the relationship between the two. The research aims to systematically analyze legal concepts as positive norms within the national legislative system. This research method is chosen because it is suitable for examining legal principles and concepts within the Indonesian legal framework. Focusing on doctrinal analysis provides a comprehensive understanding of legal doctrines and their application in the Indonesian context. Additionally, secondary legal materials allow for an in-depth exploration of existing legal literature, contributing to a thorough examination of the research topic. In conclusion, this research adopts a doctrinal legal research method, employing a statutory and conceptual approach to analyze legal materials. It relies on secondary legal data obtained through literature studies, including primary and secondary legal materials. The analysis is conducted using deductive logic, aiming to systematically examine legal concepts within the Indonesian legislative system. Above all, this research is driven by the goal to significantly contribute to a deeper understanding of legal principles and their application in Indonesia.

IV. RESULT AND DISCUSSION

A. Restorative Justice in the Republic of Indonesia Attorney General's Office

The Republic of Indonesia's Department of the Attorney General has issued the Prosecutor's Regulation Number 15 of 2020, which specifically addresses the discontinuation of prosecutions by means of implementing restorative justice.[14] Shortly thereafter, the Police Department put into effect a corresponding regulation, Republic of Indonesia Police Regulation Number 8 of 2021, about the handling of criminal offenses using restorative justice. While both restorative justice systems are bound by legal regulations, their approach and execution vary. The Prosecutor's Regulations delineate the standards for terminating prosecution by means of implementing restorative justice. This includes primary criminal offenses, which carry potential consequences of a fine or imprisonment for up to 5 years, as well as a loss value that does not exceed Rp. 2,500,000. Furthermore, the public prosecutor supervises peace procedures and extends peace initiatives to both victims and suspects, guaranteeing the absence of any improper influence, coercion, or intimidation.

Meanwhile, the Republic of Indonesia Police Regulation Number 8 of 2021 regulates general, material, and formal requirements for handling criminal acts based on restorative justice. Material requirements include

1. It is not inciting public dissatisfaction or rejection.
2. It is not exerting influence on social strife.
3. Ensuring national unity by avoiding division is essential.
4. Rejecting radicalism or separatism is of utmost importance.
5. Respecting judicial rulings and refraining from engaging in criminal conduct is necessary.

Meanwhile, formal requirements include peace between both parties and fulfilment of the victims' rights and the perpetrators' responsibilities.[15] The Police Regulations govern settlement procedures, which necessitate the filing of a written request to the appropriate authority, such as the Head of the Police Criminal and Investigation Agency, the Head of the Regional Police, or the Head of the Resort Police, in order to conclude a criminal investigation.

Begin with examining the content of Prosecutor's Regulation Number 15 of 2020 released by the Republic of Indonesia. Article 5 of the Regulation delineates the precise reasons for concluding a court procedure through the utilization of restorative justice. a). The suspect perpetrated an offense for the initial occasion. b). Criminal offenses are subject to penalties in the form of fines or imprisonment for a maximum duration of five years. c). The evidential value or the monetary loss resulting from a criminal act must not surpass Rp. 2,500,000. Moreover, Article 7 governs the protocols for achieving peace, specifically: a). The public prosecutor proposes conciliatory measures to both the victim and the suspect. b). Peace initiatives are executed in a way that is free from any kind of pressure, force, or intimidation.

The Republic of Indonesia has implemented Police Regulation Number 8 of 2021. Article 4 explains the general requirements, which include: a). Material requirements. b) Formal requirements. Article 5 then regulates material requirements, which encompass[4]:

1. It does not incite public turmoil or provoke rejection.
2. Does not have an effect on social conflict.
3. It lacks the capacity to create division within the nation.
4. Non-radicalism and non-separatism.

5. This is not a reoccurrence of a criminal act as determined by a court ruling.

The formal requirements are explained in Article 6;

1. Both parties uphold peace, save for offenses relating to drugs.
2. Ensuring the protection of victims' rights and holding perpetrators accountable, save for cases involving drug-related offenses.

Furthermore, Article 15 regulates the settlement procedures, stating that one must submit a written request to:

1. The Head of the National Police Criminal and Investigation Agency has a position within the National Police Headquarters.
2. The Regional Police Chief holds authority and responsibility at the Regional Police level.
3. The Head of Resort Police supervises both the Resort Police and Sector Police divisions.

This description demonstrates that restorative justice in the Office of the Attorney General and the police have differences in terms and procedures for resolving cases. Even though both have legal regulations governing restorative justice, the approach and implementation are different. The Office of the Attorney General offers peace to victims and suspects without pressure, while the police require initiative from the parties involved.[16] The criminal criteria for restorative solutions also exhibit differences. The police have greater discretion in this matter, as there are no restrictions on the quantity of criminal threats or the extent of victim losses. Nevertheless, inflexible limitations such as these might pose challenges for the public prosecutor in managing cases, particularly when the criminal framework does not accommodate restorative justice. For instance, even if there is reconciliation between the perpetrator and the victim, the presence of criminal components obstructs the implementation of a restorative solution. Nevertheless, inflexible limitations such as these might pose challenges for the public prosecutor in managing cases, particularly when the criminal framework does not accommodate restorative justice. For example, even if there is peace between the wrongdoer and the victim, the existence of criminal elements hinders the execution of a restorative resolution. Hence, it is crucial to take into account the disparities in strategy and execution between the Office of the Attorney General and the police when implementing restorative justice in order to enhance the efficacy of law enforcement.

B. Integrated Restorative Justice Settlement Between Investigators and Public Prosecutors

The disparity in the number of cases resolved through restorative justice by public prosecutors and investigators has led to a public perception that cases transferred to public prosecutors for restorative justice are perceived as secondary to those handled by investigators or the police.[2] This study establishes a connection between the jurisdiction to manage cases, which is with the investigator and the public prosecutor. However, it is the investigator who ultimately holds the power to decide whether to terminate the investigation or prosecution. The public prosecutor did not play an active role in the investigation when investigators employed a restorative approach, leading to limited direct engagement in resolving the case. Conversely, when the public prosecutor enforces the settlement, there is increased cooperation between the public prosecutor and investigators, particularly in the reconciliation process between the wrongdoer and the victim.

However, integration between investigators and public prosecutors is necessary at every stage of investigation and prosecution to ensure the resolution of restorative justice that is truly accountable. This aligns with the principle of horizontal supervision in procedural law in Indonesia. Even though the issuance of Orders to Stop Investigations (SP3) and Decrees to Stop Prosecution (SKP2) is within the authority of investigators, the involvement of public prosecutors in the process of resolving restorative justice at the prosecution stage is vital to maintaining the continuity of the law enforcement process.[17]

As per Article 77 Letter A of the Criminal Procedure Code, the District Court is empowered to assess and determine the lawfulness of arrest, detention, termination of inquiry, or termination of prosecution. This illustrates that the pretrial process has the ability to scrutinize the determination to terminate an investigation or prosecution. According to Article 80 of the Criminal Procedure Code, an investigator, public prosecutor, or interested third party has the right to request the Chairman of the District Court to review the legality of terminating an investigation or prosecution. The request must include the reasons for the review. Hence, all parties concerned, including public prosecutors, investigators, or the general public, retain the ability to present pretrial initiatives aimed at achieving restorative justice during the investigation and prosecution phases. This exemplifies that even if the investigation or prosecution is suspended, one can still scrutinize and evaluate the procedure using the existing legal processes.

C. Improvement of the rules (Prosecution et al.) governing restorative justice in the Attorney General's Office

The Prosecutor's Regulation Number 15 of 2020 in the Republic of Indonesia regulates the termination of prosecutions based on principles of justice.[18] Restorative justice is founded upon multiple aspects, including the roles and responsibilities of the Office of the Attorney General as a law enforcement entity that aims to provide legal certainty, maintain legal order, administer justice, and uphold truth in accordance with the law. Implementing a restorative justice approach to address criminal situations is considered an essential legal requirement for society. This method prioritizes the restoration of the original condition and aims to achieve an equitable equilibrium between protecting the rights and interests of both victims and offenders, without placing revenge as the primary concern. The Attorney General is responsible for implementing a law enforcement process that prioritizes the principles of efficiency, simplicity, and affordability in order to ensure a fair and just legal system. This includes establishing policies for handling cases in a manner that upholds the principles of justice and adheres to both legal standards and moral conscience, particularly in prosecutions that employ a restorative justice approach.[19] According to the theory of legal change or the theory of legal evolution, it can provide a deep understanding of the relevance and need for adapting legal rules to changes in society and the needs of the times.[20] The Prosecutor's Regulation Number 15 of 2020 on restorative justice demonstrates that the law is not fixed, but rather adaptable and subject to continuous evolution in response to shifts in social values, community perspectives, and contemporary demands. The rationale behind this regulation indicates that prosecutors bear the responsibility of upholding legal certainty, legal order, and justice in accordance with the law. The societal imperative underscores the importance of restoring and achieving equilibrium between safeguarding the rights of both the victim and the wrongdoer, without giving precedence to punishment, when resolving cases using a restorative justice method.

An examination of these factors demonstrates the prosecutors' receptiveness to shifts in societal attitudes towards law enforcement, displaying a more flexible and adaptable approach that goes beyond rigid adherence to formal legal regulations.[21] Law enforcement personnel, particularly prosecutors, must maintain a delicate equilibrium between this shift in society's viewpoint and their ability to promptly adapt, guaranteeing a forward-thinking approach to their responsibilities. Therefore, it is imperative to focus on the resolution of restorative justice inside the Attorney General's Office, ensuring that it not only aligns with formal-positivistic theory but also addresses community needs and advances law enforcement.

The proposed solution for enhancing the quality of case resolution through restorative justice at the Office of the Attorney General is to loosen the restrictions on case limits as stipulated in Prosecutor's Regulation Number 15 of 2020. Police regulations, which establish broad boundaries without specifying specific minimum dangers or levels of loss, might be used as the foundation for these limitations. Definite. In addition, the prosecutor's *dominus litis* role, particularly in dealing with cases that have been deemed closed, along with their authority as stipulated in the Prosecutor's Law, demonstrates the state's confidence in the prosecutor's responsible execution of their duties in assessing societal moral, ethical, and justice standards.

Therefore, the primary responsibility of the Office of the Attorney General is to achieve effective and efficient restorative justice in accordance with the desires of the community. The reason for this is that prosecutors are entrusted by the state to wield their authority by upholding moral, ethical, and justice standards in society. They have the authority to make decisions based on their own assessment in order to uphold law enforcement, while considering legal regulations and ethical standards. The execution of restorative justice by the Office of the Attorney General aligns with the community's aspiration for justice.

V. CONCLUSION

The implementation of restorative justice in the Republic of Indonesia, namely within the Attorney General's Office, highlights the evolving approach to legal enforcement. The implementation of Prosecutor's Regulation Number 15 of 2020 and Police Regulation Number 8 of 2021 demonstrates a commitment to integrating restorative justice principles into the criminal justice system. However, variations in approach and implementation among these organizations emphasize the need for uniformity and accuracy. The differences in criteria and methods for ceasing charges based on restorative justice between the Office of the Attorney General and the police create hindrances to effective law enforcement. While both aim to achieve justice and peace, discrepancies in legislation and procedures can hinder the seamless resolution of disputes. Therefore, it is essential to make efforts to develop consistent standards and foster collaboration across important organizations to enhance the efficiency and fairness of restorative justice processes. Moreover, it is crucial to integrate restorative justice settlements between investigators and public prosecutors to ensure responsibility and uniformity in the law enforcement process. Horizontal supervisory procedures, as outlined in procedural law, enable collaborative decision-making and supervision, so improving consistency and credibility in the outcomes of cases. Furthermore, the continuous improvement of regulations governing restorative justice within the Office of the Attorney General is not only essential, but also a call to action. Tackling increasing societal demands and

aspirations is a crucial and decisive measure. To enhance the effectiveness and efficiency of restorative justice initiatives, we can implement progressive approaches that prioritize community objectives and moral principles, while also loosening rigid case limits. The commitment to making progress can cultivate motivation and dedication among legal professionals and politicians. The major duty of the Office of the Attorney General is to guarantee the effective execution of restorative justice, which is essential for upholding legal clarity, order, and justice in line with evolving societal norms. Prosecutors can establish a legal system that reflects the community's commitment to justice and peace by exercising their authority judiciously and in accordance with moral and ethical values.

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