

Implementation of the Prosecutor's Authority on the Restorative Justice Implementation in the Settlement of Minor Crimes



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ABSTRACT: Restorative justice as a new discourse is a response to dissatisfaction with the applicable criminal law and criminal procedure law. This article addresses two issues: (1) the prosecutor's office's authority over the use of restorative justice in criminal cases based on Indonesian laws and regulations, and (2) the implementation of the settlement of minor offences through restorative justice. This thesis research employs normative legal research methods. The study's findings lead to the following conclusions: (1) The Attorney General's Regulation Number 5 of 2020 concerning Termination of Prosecution Based on Restorative Justice has a clear and detailed explanation of the procedures and efforts for peace; and (2) The implementation of the settlement of minor crimes through restorative justice is adjusted to Article 5 paragraph (1) PERJA No. 15 of 2020.

KEYWORDS: Attorney General of the Republic of Indonesia, Restorative justice, Attorney General Regulation Number 5 of 2020.

INTRODUCTION

Restorative justice as a new discourse is a response to dissatisfaction with the applicable criminal law and criminal procedure law¹. The most prevalent technique utilized throughout the history of human civilization has been the settlement of criminal cases using a restorative justice approach.² According to Article 1 number 1 of the Indonesian Prosecutor's Office Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice, restorative justice is the resolution of criminal cases involving the perpetrators, victims, families of perpetrators/victims, and other related parties to jointly seek a just settlement by emphasizing restoration to its original state, rather than retaliation.³ Restorative justice is a process of reaching an agreement and resolution outside of the criminal judicial system that involves victims, perpetrators, families of victims and perpetrators, the community, and others with an interest in a criminal act that happened. Restorative justice is a fair resolution in which the perpetrators, victims, their families, and other parties engaged in the crime work together to achieve a resolution to the crime and its effects, with an emphasis on healing rather than retaliation.

Restorative justice is, in fact, governed by laws that apply to the prosecutor's office, as well as to the police department, the court system, and other areas. According to Article 1 Number 27 of the Regulation of the Indonesian National Police Number 6 of 2019 concerning Criminal Investigation, restorative justice is defined as the resolution of criminal cases involving the perpetrators, victims, and/or their families, as well as related parties, with the goal of achieving justice for all parties.⁴ Instead of emphasizing the recovery of the perpetrator, the regulation focuses on the recovery of the victim. Additionally, the application of restorative justice is regulated by Decree of the Director General of the General Judiciary Agency of the Supreme Court of the Republic of Indonesia Number 1691/DJU/SK/PS.00/12/2020 concerning the Enforcement of Guidelines for the Implementation of Restorative Justice (restorative justice), which inhibits its use to minor criminal cases, children's cases, women's cases, and narcotics cases.

According to the description given above, the topic that will be explored in this article is how to implement restorative justice in the Ogan Ilir District Attorney's Office for the settlement of minor offences?

¹Eva Achjani Zulfa, *Pergeseran Paradigma Pidanaaan*, (Bandung: Lubuk Agung, 2011), hlm. 3.

²Bambang Waluyo, *Desain Fungsi Kejaksaan Pada Restorative justice*, (Jakarta: PT Rajagrafindo Persada, 2016), hlm. 29.

³Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, Article 1 point 1.

⁴ Regulation of the State Police of the Republic of Indonesia Number 6 of 2019 concerning Criminal Investigation, Article 1 number 27.

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RESEARCH METHODS

This type of research is a juridical-normative research. The normative juridical method involves examining theories and ideas associated with the issue. The normative approach, also known as the library approach, is a technique used in legal research that involves looking through already-existing library resources.⁵

DISCUSSION

As was previously stated, Indonesia was aware of the Prosecutor's Office's existence as a law enforcement agency long before the colonial era. The prosecutor's role and responsibility—which still involves carrying out criminal prosecutions and representing a plaintiff or defendant in civil cases—remain the same despite changes to both the prosecutor's name and the government.⁶

It is highlighted in the Indonesian constitutional system that judicial authority is exercised by a Supreme Court and other bodies whose tasks are related to judicial power, in accordance with Article 24 Paragraph 1 of the 1945 Constitution. Article 38 of Law Number 48 of 2009 Concerning Judicial Powers emphasizes the regulations pertaining to various additional entities.

The provisions pertaining to other governmental entities, such as the Indonesian National Police, the Indonesian Attorney General's Office, and other bodies regulated by law. Furthermore, Law of the Republic of Indonesia Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia Article 2 confirms that:

：“Prosecutors are functional officials who are appointed and dismissed by the Attorney General. The prosecutor acts on behalf of the state, with confidence based on reliable evidence, and for the purpose of justice and truth based on the One Godhead. Prosecutors are required to consider human values, legal values, and values of justice that are present in society as they carry out their tasks and use their authority. They always act in accordance with the law and pay attention to religious norms, decency, and decency⁷.”

One of the driving components of the criminal justice system in Indonesia is the Prosecutor's Office of the Republic of Indonesia or the so-called Prosecutor's Office. The main tasks of the Prosecutor's Office as an element of the criminal justice system are carried out by state officials called prosecutors.⁸

Restorative justice is an initiative or a new model approach in Indonesia that is extremely related to the value of discussion, which is the soul of the Indonesian people (*volksgeist*). By focusing on the underlying causes of a crime, restorative justice is the greatest approach for settling private crime cases involving individuals (*natuurlijkpersonen*) or legal entities (*rechtspersonen*). The improvement of the community's social order, which has been shattered by criminal activity, is the fundamental to finding a solution.

Restorative justice focuses on the process of direct criminal responsibility from the perpetrator to the victim and the community, if the perpetrator and the victim and the community whose rights have been violated feel that justice has been achieved through joint deliberation efforts, then punishment (*ultimum remedium*) can be avoided. It is now widely accepted that criminal law is a part of public law. With such a perspective, the rights that need to be preserved are generic ones, which favors the state's position and its use of force in law enforcement.⁹

The main foundation for resolving criminal acts through restorative justice is a settlement that is more than just a tool to encourage both parties to mediate penally in terms of reaching an agreement, but restorative justice aims to penetrate the hearts and minds of both parties involved in the conflict in order to understand the meaning and purpose of carrying out a remedy, and the sanctions applied are preventive sanctions..

The Criminal Procedure Code defines "prosecution" as the Public Prosecutor's activity of referring a criminal case to the appropriate district court in matters and in the manner specified in this law with a request that it be reviewed and determined by a judge during a court session. It is stated that in addition to Article 137 of the Criminal Procedure Code, the Public Prosecutor has the power to prosecute anyone who is charged with committing a crime by handing the matter off to the court. So the authority to determine whether to sue or not is given to the Prosecutor (*vide* Article 139 of the Criminal Procedure Code in conjunction with Article 2 paragraph (1) of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia).

In order to reach a resolution and settlement in cases involving minor crimes, the Public Prosecutor plays a significant part in the ongoing restorative justice process by involving victims, perpetrators, families of victims and perpetrators, the community, and parties with an interest in a crime that occurred.

⁵ Soerjono Soekanto, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, (Jakarta: Raja Grafindo Persada, 2009), hlm. 13-14.

⁶ Marwan Effendi, 2005, *Kejaksaan RI Posisi dan Fungsinya Dari Persepektif Hukum*, PT. Gramedia Pustaka, Jakarta. Hlm 120

⁷ Article 2 of Law no. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia

⁸ Bambang Waluyo, 2016, *Desain Fungsi Kejaksaan Pada Restorative Justice*, PT. RajaGrafindo Persada, Jakarta. Hal. 195.

⁹Justisi Devli Wagiu, 2015, *Tinjauan Yuridis Terhadap Asas Keadilan Restoratif Dalam Perkara Tindak Pidana Penggelapan*, Jurnal Lex Crimen, Vol. 4, No. 1, hlm. 57

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Prosecutors play a pivotal role in the administration of criminal justice in practically every jurisdiction in the world since they are crucial to the decision-making process. Even in countries where prosecutors do not conduct investigations, prosecutors retain broad prosecution discretion. In other words, the Prosecutor has the authority to decide whether or not to bring a criminal case to trial. Because of this, the Prosecutor was given the moniker "the boss of the litigation process" (master of the procedure) by the High Judge of the German Federation, Harmuth Horstkotte, so long as the matter was not taken to trial.¹⁰

The paradigm shift from retributive justice to restorative justice is part of the change in the Prosecutor's Law. The spirit of altering the criminal paradigm has been seen, according to ST Burhanuddin, the Attorney General of the Republic of Indonesia, in laws such as Law No. 11 of 2012 concerning the juvenile criminal justice system, Law on the Eradication of Trafficking in Persons, and Attorney General's Regulation (Perja) No. 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice.

Any case of termination of prosecution in favor of restorative justice is possible. If there has been an out-of-court settlement, the case may be closed for a variety of reasons, including legal purposes. The afdoenig constructed process is the term used most frequently to describe this. The following conditions allow for the execution of this process:

1. First, for certain criminal acts, the maximum penalty is paid voluntarily in accordance with the provisions of laws and regulations; and
2. Second, the actual circumstance has been restored utilizing a restorative justice approach. In the event that the second situation Occurs, the prosecutor will stop the prosecution¹¹

The terms of the case and the offender are laid out in In Perja No. 15 of 2020, allowing the prosecution to be terminated in accordance with restorative justice. The suspect has committed a crime for the first time, according to the conditions about the person or perpetrator. The crime must also meet the following two criteria:

1. First, the offence committed only carries a fine or a maximum five-year sentence for imprisonment.
2. Second, the crime is committed with the value of the evidence or the value of the loss caused as a result of the crime of not More than 2.5 million rupiah.

In order to stop the prosecution, the prosecutor must take into account a number of factors, including the subject, object, category, and threat of criminal action; the situations surrounding the case; the degree of shame; losses or consequences resulting from criminal acts; as well as the costs and advantages of handling cases. The tagline "Enn en ondeelbaar," which interprets to "One and Inseparable," serves as the foundation for the prosecutor's office's performance of its responsibilities and exercise of its powers in the area of prosecution. This policy seeks to maintain uniformity in prosecution so that it can demonstrate traits that are integrated in the prosecutor's office's way of thinking, acting, and carrying out its daily operations.¹²

In cases of minor offences, the use of restorative justice must also take into account the requirement for legal certainty, which calls for decisions to be made by institutions that truly represent God and not just the interests of the state.

In this case, it is the prosecutor's responsibility to decide whether the suspect committed a minor or severe crime. The prosecution may choose the route of restorative justice if the case is minor, the victim is not very concerned with it, and the victim is willing to forgive the crime committed by the suspect. The notion of criminal sanctions in restorative justice does not acknowledge punishment that seeks retaliation but instead promotes the concept of conflict resolution between the victim and the offender. Some examples of criminal sanctions concepts that can be used in restorative justice are:

a. Restitution

Restitution is a process of compensating for losses, in which the perpetrator of a crime compensates the victim of the perpetrator of a crime for all actions that result in the loss to the victim of a crime. Restitution, in accordance with Weitekamp as cited by Rufinus Hutahuruk, proactively includes violators and victims in rectifying the damage or loss intended for the victim

b. Compensation for Victims

Compensation is a process of manifesting criminal responsibility that can resolve internal conflicts. To address the psychological scars caused by the rights and sense of trust that the perpetrators of criminal acts have breached, the notion of compensation is another way that minor crimes can be punished by the law. The idea of using restorative justice in cases of minor crimes is preferable to the criminal justice system and the traditional justice process, which take a long time and cost the victim and the government a lot of money while focusing more on the minor crime case itself and taking up a lot of resources.

Restorative justice requires a variety of components that incorporate a number of principles, such as: joint participation between victims and offenders, as well as the community; positioning of offenders and victims as main players in efforts to find a just

¹⁰ Bambang Waluyo, 2016, *Desain Fungsi Kejaksaan Pada Restorative Justic*, PT. RajaGrafindo Persada, Jakarta. Hal. 199

¹¹ <https://www.hukumonline.com/berita/baca/lt5f90e1d9d0e8f/penghentian-penuntutan-demi-irestorative-justice-i-perlu-masuk-ruu-kejaksaan/>. Accessed, April 28, 2021. At 21:46 WIB

¹² Wahyu Nurdianto, *pengaturan-penghentian-penuntutan-berdasarkan-keadilan-restoratif-sebuah-langkahprogresif-kejaksaan*, <https://www.timesindonesia.co.id/read/news/288144/> accessed on 29 June 2021

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resolution for all parties; and an understanding between them to choose an informal and personal route. In fact, many indigenous Indonesian groups have been following these ideas and practices for a long time, and this is considered to be local wisdom there. Therefore, efforts to implement this strategy as an alternative model for addressing the issue of minor crimes are progressing very well. All that is required is a modification of traditional practices that have existed and grown in various places throughout Indonesia for a long time.¹³

Criminal cases can be closed for the sake of law and the prosecution terminated based on restorative justice if the following conditions are met:

1. the suspect has committed a crime for the first time; a criminal offense is only punishable by a fine or punishable by imprisonment of not more than 5 (five) years;
2. and the criminal act is committed with the value of the evidence or the value of the loss caused as a result of the criminal act of not more than Rp. 2,500,000.00 (two million five hundred thousand rupiah).

Criminal acts performed against people, their bodies, lives, or their independence, as well as criminal acts perpetrated because provisions regarding the value of losses were neglected, may be excluded from the settlement of crimes involving property. The prosecutor must take into account a number of factors in order to stop the prosecution, including the subject, object, category, and threat of a criminal act; the circumstances surrounding the crime; the level of shame; losses or consequences resulting from criminal acts; as well as the costs and benefits of handling cases

In the Memorandum of Understanding with the Chief Justice of the Supreme Court of the Republic of Indonesia, the Minister of Law and Human Rights of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, the Head of the State Police of the Republic of Indonesia regarding the Implementation of Adjustments to the Limitation of Minor Crimes and the Amount of Fines, Quick Examination Procedures, and the Implementation of Restorative Justice (restorative justice).), criminal acts can be resolved with a restorative justice approach, minor crimes discussed here are crimes related to property. Adjustments to the value of goods contained in this PERMA are contained in Articles 364, 373, 379, 384, 407 paragraph (1) and 482 of the Criminal Code to Rp. 2.500.000.- (two million five hundred thousand rupiah). Therefore, a case that meets the requirements of the article and has a "value of goods" of no more than Rp 2,500,000.- (two million five hundred thousand rupiah) shall be tried using the procedure for adjudicating a minor crime

According to analysis conducted by the Ogan Ilir District Prosecutor's Office, following the completion of the formal requirements for the termination of the prosecution based on restorative justice, the public prosecutor who was appointed in accordance with the Appointment Letter (P16) will prepare a number of administrations for its implementation and as information to be reported to leadership, namely:

1. Memorandum Opinion of Case Study Results (SOP Form 07)
2. Warrant of facilitating the peace process based on restorative justice. (RJ-1)
3. Summons to the parties, namely the victim, child of the victim, community leaders and detained suspects and their families. (RJ-2)
4. Notification of settlement of cases outside the court based on restorative justice to investigators. (RJ3)
5. Memorandum opinion of peace efforts/process/implementation of peace agreement activities. (RJ-4)
6. Report on Successful/Accepted Peace Efforts. (RJ-5)
7. Peace Agreement. (RJ-7)
8. Minutes of the Peace Process. (RJ-8)
9. Report on the Peace Process Received. (RJ-9)
10. Minutes of the Implementation of Peace. (RJ-10)
11. Report on Successful Peace Implementation. (RJ-11)
12. Request Letter for Termination of Prosecution Based on Restorative Justice. (RJ-13)
13. Decision Letter on Termination of Prosecution by the Head of the Prosecutor's Office (RJ-14)
14. Termination Notification of Prosecution Based on Restorative Justice (RJ-15)

According to research conducted at the Ogan Ilir District Prosecutor's Office, the Public Prosecutor, who was chosen to manage criminal cases and served as a mediator to help the suspect and the victim come to a resolution, carried out a number of processes for stopping prosecution based on restorative justice. The peace process is carried out in the following stages:

Phase I: The Public Prosecutor discusses the meeting's aims and outcomes in the context of the peace negotiations being undertaken by the Ogan Ilir Prosecutor's Office, specifically with regard to the repercussions if the parties agree or disagree to make peace and the length of the peace process. The parties were then asked to express their opinions by stating that they understood and

¹³ Gregorius Hermawan Kristyanto, 2018, *Fungsi Kejaksaan Dalam Mewujudkan Restorative justice Dalam Penanganan Anak Berhadapan Dengan Hukum di Indonesia*, Jurnal Surya Kencana Dua: Dinamika Masalah Hukum dan Keadilan, Vol. 5., No. 1, hlm. 470

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approved of the public prosecutor's proposed peace process and that they were willing to resolve cases of criminal acts committed by the suspect against the victim through a process of restorative justice through a peace mechanism that was carried out unconditionally. (RJ-7)

Phase II: The Public Prosecutor acts as a facilitator and gives the suspect the possibility to verbally apologize to the victim and his family. The victim then verbally expresses his sincere forgiveness of the suspect's actions in front of the Head of General Crimes, the Public Prosecutor acting as a facilitator, community leaders, and other parties without being seen. The Minutes of Peace (RJ-8) and Peace Reports also include information about the peace pact (RJ-9).

Phase III: The parties, the public prosecutor acting as a mediator, and community leaders signing the Minutes of the Implementation of the Peace Agreement serve as proof that the peace agreement has been successfully implemented. (RJ-10)

Phase IV: The Public Prosecutor will issue a report on the effective implementation of the Peace once an agreement has been reached. (RJ-11)

Phase V: The peace agreement through this restorative justice approach has been carried out in accordance with the applicable laws and continued with the issuance of a Decision on Termination of Prosecution signed by the Head of the Ogan Ilir District Attorney and outfitted with administrative completion and documentation of peace activities.

According to the formulation in Article 480 Paragraph 1 of the Criminal Code, the case on behalf of the suspect Doni Yanuardi Bin Junaidi has met the requirements for the implementation of termination of prosecution based on restorative justice because the criminal threat from Article 480 Paragraph 1 of the Criminal Code is imprisonment for 4 (four) years or a maximum fine of Rp. 900,000, -. (Nine hundred thousand rupiah), this is in accordance with the provisions of Article 5 paragraph (1) PERJA No. 15 of 2020, which states: "Criminal cases can be closed for the sake of law and the prosecution is terminated based on restorative justice if the following conditions are met: ¹⁴

1. The suspect has committed a crime for the first time;
2. a criminal offense is only punishable by a fine or punishable by imprisonment of not more than 5 (five) years; and
3. a criminal act is committed with the value of the evidence or the value of the loss caused as a result of the crime of not more than Rp. 2,500,000,- (two million five hundred thousand rupiah).

Furthermore, based on the provisions of Article 5 paragraph (6) which states that in addition to fulfilling the terms and conditions as referred to in paragraph (1), paragraph (2), paragraph (3), and paragraph (4), the termination of prosecution based on Restorative Justice is carried out by fulfilling the following conditions:

1. There has been recovery back to its original state carried out by the Suspect by:
 - a. Return the goods obtained from the crime to the victim.
 - b. Compensate the victim.
 - c. reimburse the costs incurred as a result of the criminal act; and/or
 - d. Fix the effect caused by the criminal act.
2. there has been a peace agreement between the Victim and the Suspect; and
3. The community responds positively.

1. Lahmayawati Binti M. Yusuf

- Public Prosecutor : Fita Fitrallah, S.H.
- Implementation Date : April 25, 2022
- The alleged article : Article 351 paragraph (1) of the Criminal Code
- Position Case:
 - a. Whereas the suspect, Lahmayawati Binti M.Yusuf, was offended/hurt when the witness PUPUT MELATI Binti AYI SUKINAR visited and asked for a debt of Rp. 500,000,- (five hundred thousand rupiah) which was borrowed by the suspect from the Witness's parents.
 - b. On Wednesday, December 01, 2021, at around 07.30 WIB, the suspect saw the witness shopping at the market, then from behind the suspect holding a stick stick approached the witness and hit the witness's hand.
 - c. As a result of the beating, the witness experienced bruises/looks red, bruises on the right arm based on the Visum Et Repertum from the UPTD Puskesmas Seri Tanjung on December 6, 2021.

According to the formulation in the provisions of Article 351 paragraph (1) of the Criminal Code, the case on behalf of the suspect Lahmayawati Binti M.Yusuf has met the requirements for carrying out the termination of prosecution based on restorative justice because of the criminal threat from the provisions of Article 351 paragraph (1) The Criminal Code is a prison sentence of 2 (two) years and 8 (eight) months or a maximum fine of Rp. 4.500, - (four thousand five hundred rupiah), this is in accordance with the provisions of Article 5 paragraph (1) PERJA No. 15 of 2020, which states: "Criminal

¹⁴ Wawancara dengan Berly Yasa Gautama, selaku Ajun Jaksa, Kejaksaan Negeri Ogan Ilir, tanggal 10 Mei 2022 Pukul 10.00 WIB.

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cases can be closed for the sake of law and the prosecution is terminated based on restorative justice if the following conditions are met:¹⁵

1. The suspect has committed a crime for the first time;
2. a criminal offense is only punishable by a fine or punishable by imprisonment of not more than 5 (five) years; and
3. a criminal act is committed with the value of the evidence or the value of the loss caused as a result of the crime of not more than Rp. 2,500,000,- (two million five hundred thousand rupiah).

Moreover, in accordance with Article 5 paragraph 6's rules, which specify that in addition to meeting the requirements outlined in paragraphs (1), (2), (3), and (4), the completion of the following requirements is required in order to end a prosecution based on restorative justice:

1. The suspect has taken steps to restore the property to its original condition, including:
 - a. paying back expenses incurred as a result of the illegal act; and/or
 - b. fixing any damage brought on by the criminal act.
2. The victim and the suspect have reached a peace accord;
3. The community responds positively.

However, there are challenges the Ogan Ilir District Attorney faces in putting in place a system of resolving criminal cases outside of court using a restorative justice approach, as well as the steps that must be taken to overcome them. These challenges include:

1. Legal substance

The Law on Judicial Power currently contains a provision in Article 8 paragraph 4 that encourages prosecutors to always act in accordance with the law while paying attention to religious norms, decency, and morality. Prosecutors are also required to investigate and uphold the human values that exist in society and to always maintain honor and dignity. The prosecutor cannot utilize this clause as the foundation for the implementation of restorative justice because there are no regulations governing the prosecution's office's ability to resolve matters outside of court

2. Legal structure

As stated in the legal substance, the law enforcement infrastructure and its institutions are the driving force behind the legal system. The legal structure in this case is the prosecutor's office and its apparatus, especially the prosecutor. If this legal structure is what prevents prosecutors from using a restorative justice approach to resolve cases outside of court, the fundamental barrier is that they lack the authority to do so. The prosecutor has a responsibility to investigate and uphold human principles that exist in society, as stated in Article 8 Paragraph 4 of the Law on Judicial Power.

3. Legal culture

In conclusion, legal culture can be defined as social norms relating to the law. The law that controls the prosecutor's use of restorative justice to oversee the settlement of criminal cases outside of court is what is intended in this instance by the community-related statute. It appears that the prosecutor's office won't face too many obstacles if this legal culture is tied to the settlement of cases outside of court. Because in general the parties who are peaceful are compared to dealing with law enforcement agencies, both the police, the prosecutor's office and the court.

The Indonesian people's deeply familial culture strongly reflects restorative justice. The community itself completely supports this restorative justice system, as evidenced by the involvement of community representatives during the restorative justice process, which comes next from the perspective of the community that impacts. Therefore, the actual practice of restorative justice has been going really well. It is deemed an abuse of discretionary power when there are no legal regulations that govern and serve as the foundation for legitimacy in decisions made during the investigation process, whether they are based on the idea of restorative justice or other approaches that follow the progression of sociological jurisprudence. Another barrier to the use of restorative justice is the lack of a formal procedural framework or mechanism to implement it.¹⁶

Given that the benchmarks employed are relatively subjective in nature and depend on the demands of each party, obstacles to advancing the interests of the parties are quite likely to arise. As a result, there are numerous opportunities for conflicts of interest in the field, including:

1. If the perpetrator is unable to sustain or compensate the victim, or if the victim requests compensation or compensation that is too great for the offender to provide.
2. If the victim (or her family) prefers punishment for the offender and does not require restitution or compensation
3. If the victim is being forced by the perpetrator to seek peace.

¹⁵ Interview with Fita Fitrah, as Assistant Prosecutor, Ogan Ilir District Attorney, on 10 May 2022 at 14.00 WIB.

¹⁶ Interview with Berly Yasa Gautama, as Assistant Prosecutor, Ogan Ilir District Attorney, on 10 May 2022 at 10.00 WIB.

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4. If there are multiple victims, each victim receives compensation or damages, but the other party is not compensated.
5. If there is no sort of reparation or forgiveness given to the victim, it may be difficult to forgive.¹⁷

CONCLUSION

The use of restorative justice by investigators during the investigation process is a breakthrough regulatory reform for handling criminal cases with the goal of resolving cases for people who want to obtain justice of the highest quality, but not through a formalistic, prolonged, rigid, and expensive criminal justice process. In line with Article 5 Paragraph (1) of the Republic of Indonesia Attorney's Regulation No. 15 of 2020, the Ogan Ilir District Prosecutor's Office has successfully implemented the settlement of small crimes based on restorative justice with examples of current cases. However, there are a number of barriers to its execution, including the legal void that persists despite the issuance of Perja RI No. 15 of 2020 and the formation of a conflict of interest between the criminal and the criminal's victim.

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¹⁷ Interview with Berly Yasa Gautama, as Assistant Prosecutor, Ogan Ilir District Attorney, on 10 May 2022 at 10.00 WIB