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Victimological Review of the Implementation of Restorative Justice in Criminal Case

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ABSTRACT: The purpose of writing this article is to find out and analyze the role of the prosecutor in applying the concept of restorative justice, what is the relevance of the concept of restorative justice to victimology and whether the principles of restorative justice are able to provide a sense of justice for victims. The method used in this study uses normative legal methods. The issuance of the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020 concerning termination of prosecution based on restorative justice provides an important role for the Prosecutor's Office in carrying out restorative justice. The concept of Restorative Justice has relevance to victimology, referring to the Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. On the victim's side, restorative justice provides the power to give opportunity to perpetrators to express their grief to victims and it should be easier for them to gather in professionally conducted meetings.

KEYWORDS: Restorative Justice, Victimology, Attorney General

INTRODUCTION

A. Background of the Problem

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that Indonesia is a country based on law. This means that Indonesia is a state of law. Thereby, legal protection becomes an essential element and consequently in a state of law, the state is obliged to guarantee rights the legal rights of its citizens. Legal protection is an acknowledgment of the dignity of its citizens as human beings.[1]

The definition of legal protection according to experts is to provide protection against human rights that are violated by others and that protection is given to the community in order to enjoy all the rights provided by the law.[2]

Another opinion states that legal protection of the people is a government action that is preventive or repressive in nature. This preventive legal protection has the goal of eliminating the risk of disputes, which drives government action to be careful in every decision or policy based on discretion, and repressive protection has the goal of resolving disputes, including handling them in law enforcement agencies and justice institutions.[3]

Criminal law is a set of rules that determine which actions are prohibited and included in criminal acts, and decide which punishment can be punished for those who commit them.[4]

The principles of criminal law can be stated as public law, i.e. regular legal relations and the emphasis is not on the interests of individuals who are directly harmed, but on the government (law enforcers) according to time and the public interest.

Every human being in this world has inherent rights without exception, such as the right to life, the right to feel safe, the right to be free from all forms of oppression and other universal rights called Human Rights. Issues related to human rights have existed since ancient Greece, and one of the existing ideas is that according to eternal law (law of nature), human rights must be respected.

At present, the issue of human rights has become a global issue in addition to issues of democracy and the environment, and has even become a demand that really needs serious attention from the State in order to respect, protect, defend and guarantee the human rights of citizens and citizens. without discrimination.

History records that Bung Hatta's ideas were accommodated in the 1945 Constitution of the Republic of Indonesia which was ratified at the PPKI meeting on August 18, 1945. This accommodation seemed to be a compromise so that there would be no

[1] Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, pasal 1 ayat 3

[2] Satjipto Raharjo, *Ilmu Hukum*, PT. Citra Aditya Bakti, Bandung, 2000, Hlm.54.

[3] Phillipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia*, PT. Bina Ilmu, Surabaya, 1987, Hlm.2.

[4] Moeljatno, *Asas-asas Hukum Pidana Edisi Revisi*,Cetakan Kelima,Rineka Cipta, Jakarta, 2008, hlm.1.

prolonged debate. which ultimately hampered the formulation of the constitution itself so that Indonesia was independent.[5]

The decision to give respectable place to human rights in the 1945 Constitution was a far-sighted and politically correct decision by the framers of the constitution at that time. Parameters to measure whether a country's political system and practices are democratic, even though human rights are included in the constitution. Human rights guarantees must be clearly and detailed in the constitution, because in practice the state easily violates the human rights of its citizens.[6]

Legal positivism regards law as a norm and law as an order of power. Based on this, legal knowledge must be in the form of written laws and regulations, as well as legal documents in the form of rules, to guarantee certainty. According to the school founded by John Austin (1790-1859), the essence of law is order. Law is a fixed, logical and closed system. therefore the law must be coercive through fear so that in action it can act fairly or vice versa.[7]

The evil that threatens those who disobey is expressed in the form of the sanctions behind every order. The next view that criticizes positivism is utilitarianism, this school refers to the right to goodness/happiness. Therefore, whether a law is good, bad or just depends on the usefulness/happiness of the person himself. The purpose of law is to create social order.[8]

Conceptually, restorative justice contains ideas and principles such as building participation with perpetrators, victims and community groups in resolving an incident or crime. Positioning perpetrators, victims and the community as "stakeholders" who work together and immediately seek solutions that are considered fair for all parties. In addition, another goal is to encourage the perpetrator to hold the perpetrator accountable for the victim of a crime or fact that has caused damage or loss to the victim, which in turn creates responsibility for the non-recurrence of the crime. deeds done. Another view of restorative justice is to see criminal events or actions primarily not as violations of the law, but as violations of one person against another, because this must be aimed at holding the victim accountable, not legal responsibility. Another concept is to encourage disclosure of an incident or crime in a more informal and personal way, not in a formal, rigid and impersonal way.[9]

Restorative justice itself makes sense to restore justice and what exactly is being restored? In ordinary criminal proceedings, restitution or compensation is known to victims, while restitution has a broader meaning. Recovery involves rebuilding the relationship between the victim and the perpetrator. Restoration of this relationship can be based on mutual agreement between the victim and the perpetrator. Victims can bear the losses they suffer, and perpetrators have the opportunity to make up for it through mechanisms of compensation, peace, social assistance, and other agreements. Why is this important? Because normal criminal procedures do not allow the parties involved, in this case victims and perpetrators, to actively participate in problem solving. Any evidence of crimes, regardless of the escalation of their actions, will still be referred to the field of law enforcement, which is the exclusive jurisdiction of law enforcement agencies. As if people's active participation no longer mattered, it all boils down to judgment or punishment regardless of substance.

In traditional criminal justice, for example, if there is reconciliation between the perpetrator and the victim and the victim has forgiven the perpetrator, this does not prevent law enforcement officials from continuing to direct cases to the area of crime which will eventually lead to the perpetrator's conviction. Formal criminal prosecutions that are protracted and do not provide certainty for both the perpetrator and the victim certainly do not necessarily guarantee the fulfillment or restoration of the relationship between the victim and the perpetrator. Traditional criminal trials make the victim only later as a witness at the trial level, this does not significantly affect the decision, and the task of prosecution remains with the prosecutor who only accepts investigative materials for further processing as the basis for consideration.

The benefit of the concept of restorative justice from the victim's point of view is that it is more able to provide or satisfy needs and satisfaction than litigation. For criminals, this is an opportunity to regain societal respect, not permanent humiliation. At the same time, from a societal point of view, criminals become less dangerous, and the money used to commit crimes can be directed towards other prevention or construction works.[10]

Based on the description above, especially with regard to Restorative Justice, the authors are interested in raising the title "VICTIMOLOGICAL REVIEW OF THE IMPLEMENTATION OF RESTORATIVE JUSTICE IN CRIMINAL CASE".

B. RESEARCH METHOD

The research method is the steps that are owned and carried out by researchers in a series of activities to collect information or data and conduct investigations on the data that has been obtained.

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[5] Koesparmono Irsan, Hukum dan Hak Asasi Manusia (Jakarta: Yayasan Brata Bhakti, 2009), hlm. 2

[6] Jimly Assiddiqie, Hak Asasi Manusia dalam Konstitusi Indonesia dari UUD 1945 sampai dengan Amandemen UUD 1945 Tahun 2002 (Jakarta: Prenada Media, 2005), hlm. vii

[7] Achmad Ali, Menguak Teori Hukum (Legal Theory) dam Teori Peradilan (Judicial Prudence) termasuk Interprestasi Undang-Undang (Legisprudence) (Jakarta: Kencana Prenada Media Group, 2009), hlm. 56

[8] Henny Nuraeny, dalam ringkasan disertasi program Dokter Ilmu Hukum Pascasarjana UNPAR, Kebijakan Hukum Pidana Terhadap Pencegahan Tindak Pidana Perdagangan Orang Dalam Perspektif Hukum dan Hak Asasi Manusia, 2010, hlm. 24

[9] Op.cit, hlm. 7

[10] Garry Johnstone, Restorative Justice, WP, 2002, hlm. 2

The method that the author uses in writing this article is normative juridical, namely an approach that is carried out through a review process based on approaches to theories, concepts, conducting a study of laws and regulations that have a correlation with this research or a statutory approach. Normative juridical research is legal research that places law as a building system of norms. The system of norms referred to here is regarding the principles, norms, rules of laws and regulations.

C. Problem Formulation

From the background presentation above, the problem can be formulated as follows:

a. What is the role of the Prosecutor's Office in the Application of the Restorative Justice Concept?

b. What is the Relevance of the Concept of Restorative Justice to Victimology?

c. Are the Principles of Restorative Justice Able to Provide a Sense of Justice for Victims?

DISCUSSION

A. Theoretical Study

Prevention of crime through criminal law is an ancient way, as old as human civilization itself. There are also those who call it "*older philosophy of crime control*".[11] Seeing this as a policy issue, there are those who doubt that crimes must be eradicated, prevented or controlled through criminal sanctions. To implement (substantive) criminal law, a law is needed that can implement the provisions contained in (substantive) criminal law, namely formal law or criminal procedural law. Criminal law itself broadly includes substantive/substantive law and formal law. Crime prevention and control efforts or policies are included in the scope of criminal policy. This criminal policy is also inseparable from a wider policy, namely social policy, which consists of social security policies/measures and social security policies/measures. Therefore, if the crime prevention policy (*criminal policy*) implemented through criminal law (*criminal law*), then the criminal law policy (*criminal policy*), especially on*fase forensic policy*, namely the non-specific realization of social security policy objectives, in the form of social security and social protection.[12]

Social policies aimed at achieving social welfare and protection conform to the concept espoused by Marc Ansel (a more moderate proponent of social protection). According to Marc Ansel quoted by Barda Nawawi, Arif and Muladi stated that:[13]

"Every society needs a social order, namely a set of rules that are not only in accordance with the needs of coexistence, but also with the aspirations of the members of society as a whole. Therefore, the main role of criminal law is an inevitable necessity of the legal system."

The protection of individuals and society depends on the formulation of criminal law which underlies the life of the community itself. Thus, in the criminal law system, criminal acts, the judge's assessment of the perpetrators in relation to the law purely or criminally is an institution (institution) that must be preserved. By only applying criminal law, Marc Ansel refuses to use legal fiction and legal instruments that are independent of social statements.

The theoretical framework is a concept as the main frame of reference so that it becomes the basis for identifying social events that are considered relevant by researchers.[14] Based on this, the theory used in this research article is:

1. Theory of Legal Protection

In the Big Indonesian Dictionary, the word "Protection" comes from the word "Protect" which means "protect", "prevent", "protect" and "strengthen". Protection means conservation, maintenance, guard, shelter and bunker. In general, protection means protecting something from dangerous objects, or things that can become interests, objects, or possessions. Apart from that, protection also refers to the protection one gives to someone who is weaker. Thus, legal protection can be interpreted as protection by law or protection through the use of legal means and institutions. However, in laws and regulations, legal protection is defined as all efforts made consciously by everyone, both the government and private entities, which aim to guarantee, supervise and achieve prosperity in accordance with existing human rights regulated by law. Human Rights Law no. 39 of 1999.[15]

Phillipus M. Hadjon defines legal protection for individuals as preventive and repressive government actions.[16] Preventive judicial protection is intended to prevent the emergence of disputes governing the actions of the authorities, which must be taken into account when making discretionary decisions, and repressive protection is intended to prevent disputes from occurring, including their treatment in the legal field.[17]

Specifically, legal protection for children can be found in Article 58 of the Human Rights Law which states "every child has

[11] Muladi dan Barda Nawawi Arief, Teori-Teori dan Kebijakan Pidana, Alumni, Bandung, 1984, hlm. 149.

[12] Barda Nawawi, Arief, Masalah Penegakan Hukum dan Kebijakan Penanggulangan Kejahatan, PT. Citra Aditya Bakti, Bandung, 2002. Cet ke 2, hlm. 73.

[13] Muladi dan Barda Nawawi Arief, op.cit, hlm. 154.

[14] Soerjono Soekanto, *Metode Penelitian Hukum*, UII Press, Jakarta, 2010, Hlm. 125.

[15] http://tesishukum.com/pengertian-perlindungan-hukum/ Diakses pada 01 maret 2022 Pukul 11.00

[16] Phillipus M. Hadjon, *Perlindungan Hukum bagi Rakyat Indonesia*, PT. Bina Ilmu, 1987, Surabaya, hlm.2.

[17] Maria Alfons, *Implentasi Perlindungan Indikasi Geografis Atas Produk-Produk Masyarakat Lokal Dalam Prespektif Hak kekayaan Intelektual*, Universitas Brawijaya, Malang, 2010, hlm.18.

the right toget access to legal protection from all forms of physical or mental violence, neglect, bad treatment, and sexual harassment while in the care of parents or guardians, or other parties or those who are responsible for the care of the child.

Furthermore, based on Law Number 23 of 2002, the child is the successor of the nation and the successor of the nation's ideals, so that every child has the right to survival, growth and development, participation and is entitled to protection from all acts of violence and discrimination as well as civil and freedom.

2. Theory of Penal Policy

Theoretically the policy on the enactment of criminal law or Penal Policy is how a criminal law can be formulated and arranged in a coherent manner and provides guidelines and guidelines for making laws (legislative policies), application policies (judicative policies), and implementation of criminal law (executive policies). Legislative policy is a very important stage of the following stages, because when the stages of criminal legislation are made, the direction to be directed is certain to be determined or in other words what actions will be prohibited by criminal law.[18]

This article examines the notion of criminal responsibility in criminal law in relation to four aspects, namely: the definition of prohibited acts (penalization); determining the threat of criminal responsibility for prohibited acts (criminal or extracriminal regime); the stage of imposing sanctions on legal subjects (individuals or legal entities); stages of criminal proceedings. These four aspects are interrelated.

The process of criminalization is the process of defining a person's actions as a crime. This act is threatened through the formation of laws with sanctions in the form of criminal penalties.[19]

The criminalization theories that emerged about the process of sorting out whether or not an act was a crime and being able to explain the determinants that could influence the process were still very limited.

The criminalization process ends with the formation of laws and regulations where the act is threatened with a sanction in the form of a crime (formulation stage). A criminal law regulation is formed which is ready to be applied by the judge (application stage) and then when a sentence is imposed, it is carried out by the administrative authority (execution stage).[20]

Criminal itself can be interpreted as stages in determining sanctions and stages of imposing sanctions in criminal law. One of the efforts to overcome crime is to use criminal law with sanctions in the form of punishment. Talking about criminal sanctions is not limited to the judge's decision. As for the penalty or punishment, it has two meanings:[21]

a. In a general sense, it concerns the legislators, namely those that determine the system of criminal law sanctions (penalties*in abstract*).
b. In a concrete sense, it is related to various bodies or positions that all support and implement the criminal law sanction system.

The use of legal resources, including criminal law, in an effort to address social problems, is part of law enforcement policies. The system of punishment or punishment (*the setencing system*) are laws and regulations relating to criminal sanctions and punishment (*the statuory rules relating to penal snaction and punishment*). The system of punishment or punishment here includes the types of criminal sanctions, the levels of criminal sanctions, and the procedures for carrying out crimes.

Given the importance of punishment as a means to achieve a larger goal, namely the protection of society and the welfare of society, it is also necessary to pay attention to theories of punishment or punishment in science, namely:

1. Theory of Absolute or Theory of Revenge

According to this theory, punishment is given only because people have committed crimes or crimes, so that punishment is an absolute consequence that must exist as a form of retribution for those who commit crimes. Thus, the basis for justifying a crime is the presence or commission of the crime itself.

2. Relative Theory or Purpose Theory

According to this theory, punishment not need the requirements of absolute justice. Retribution itself has no value, but only as a means to protect the interests of society. Crime is not only about revenge or rewards for people who commit crimes, but also for useful purposes, that's why this theory is called goal theory.

B. Research Analysis

Viewed through the aspects of criminal law policy, the target of criminal law is not only to regulate the actions of society in general, but also to regulate the actions (authority/power) of the authorities/law enforcement officials.[22] Efforts to prevent and overcome crime are not only the task of law enforcement officials but also the task of lawmakers (legislature). According to Barda Nawawi Arief, the most strategic stage of crime prevention and control efforts is the formulation stage, therefore mistakes/weaknesses in

[18] Teguh Prasetyo dan Abdul Halim Barakatullah, *Politik Hukum Pidana*, Pustaka Pelajar, Yogyakarta, 2005, Hlm.18.
[19] Ibid, hlm. 82.
[20] Ibid, Hlm.19.
[21] Sudarto, *Hukum dan Hukum Pidana*, PT Alumni, Bandung, 2007, Hlm.42.
[22] Barda Nawawi, Arief, Masalah Penegakan Hukum dan Kebijakan Penanggulangan Kejahatan, PT. Citra Aditya Bakti, Bandung, 2002. Cet ke 2, hlm. 29.

legislative policies are strategic mistakes that can become an obstacle to efforts to prevent and overcome crime at the application and execution stages.[23]

According to Soedarto, criminal policy has three meanings:[24]

1. In a narrow sense, it states that the overall principles and methods that form the basis of reactions against law violators in the form of crimes;
2. In a broad sense it states that the overall function of the law enforcement apparatus includes the workings of the courts and the police;
3. In the broadest sense, it states that all policies are carried out through legislation and official bodies, which aim to uphold the main norms of society.

On another occasion, he stated that a brief definition of criminal politics is a rational attempt by society to deal with crime. This definition is taken from the definition of Marc Ancel who formulates it as "*The Rational Organization of the Control of Crime by Society*".

Crime prevention policies are essentially an integral part of efforts to protect society (*Social Defence*) and efforts to achieve social welfare (*Social Welfare*). Therefore, it can be said that the ultimate goal or main goal of criminal politics is the protection of society.

Completion of criminal justice system legislation as a means of overcoming crime is part of criminal policy or criminal policy. Carrying out a crime policy means planning for the future in solving or overcoming problems related to crime. Included in this plan, in addition to specifying what action must be taken against criminal acts, also determines the punishment system that must be applied to convicts, taking into account the rights
convict rights.

According to Barda Nawawi Arief, criminal law reform requires research and reflection on central issues which are very fundamental and strategic. Included in the classification of these problems is the issue of policy to stipulate/formulate an act as a crime and the sanctions that can be imposed.[25] [25]

The definition of a criminal act that contains elements that can qualify as a criminal act or not, legal experts have different views. The following will describe the opinions of some of these legal experts.

Moeljatno defines a crime as an act that is prohibited by a rule of law, the prohibition of which is accompanied by threats (sanctions) in the form of certain penalties for anyone who violates the prohibition. Prohibition directed atactions (circumstances or events caused by a person's actions), while criminal threats are aimed at the person who caused the event to occur.[26]

Simons defines a criminal act (crime) as an unlawful act committed intentionally or unintentionally by a person who according to the law can be held accountable for his actions and has been declared as an act or action that can be punished.[27]

Van Hammel explains criminal acts as human actions that are limited by law, contrary to law (deserving or proper) to be punished, and can be reprimanded for mistakes.[28]

In Indonesia,*Restorative Justice* is getting attention and is highly encouraged. Moreover, there is an urgent need to reform law enforcement, in addition to encouraging all components of law enforcement (police, prosecutors, courts), it must also pay attention to the principles of victims' rights with a review *Victimology.*

C. Research Results

1. The Role of the Prosecutor's Office in the Application of the Restorative Justice Concept

Law enforcement in Indonesia is characterized by a criminal justice system based on a system of power or authority to uphold the law. Mardjono Reksodiputro defines the criminal justice system as a crime control system consisting of various agencies such as the police, prosecutors, courts, correctional facilities and advocates/lawyers. Then, Mardjono also believes that the criminal justice system as a system in society for the purpose of tackling crime is an effort to control crime so that it remains within the limits of tolerance that have so far been in effect in society.[29]

In trying cases in Indonesia, Law No.8 of 1981 concerning the Criminal Procedure Code is a general guideline that is used as the basis for administering the criminal justice system by law enforcers, police, prosecutors, courts. and correctional institutions, as well as legal consultants. As a subsystem of legal substance, the Criminal Procedure Code has a significant influence on the functioning of the criminal justice system, it does not even rule out the possibility that there are deficiencies in the Criminal

[23] Ibid, hal 35.
[24] Soedarto, Kapita Selekta Hukum Pidana, Alumni, Bandung, 1986, hal. 113.
[25] Barda Nawawi Arief, Kebijakan Legislatif dalam Penanggulangan Kejahatan dengan Pidana Penjara, Balai Penerbitan Undip, Semarang, 1996, hlm. 3.
[26] Moeljatno, Asas-asas Hukum Pidana, Cetakan Kedua, Bina Aksara, Jakarta, 1984, hlm 54.
[27] Leden Marpaung, Unsur-unsur Perbuatan Yang Dapat Dihukum, (Delik), Jakarta, SinarGrafika, 1991, hlm. 4.
[28] Soedarto, Hukum dan Hukum Pidana I , Alumni, Bandung, 1986, hlm. 41
[29] Mardjono Reksodiputro, "Rekonstruksi Sistem Peradilan Pidana Indonesia." Jurnal LEX SPECIALIS, Vol. 11, 2017, hlm. 5.

Procedure Code that result in the destruction of the criminal justice system.

Likewise with the relationship between institutions tasked with enforcing the law in accordance with their respective authorities. Beginning with the working of the authority of the Police and the Attorney General's Office as the main guard for implementing law enforcement procedures. It can be assessed that the domination of the two institutions will greatly determine the law enforcement process that has been taking place so far, in fact the current order should divide the function of law enforcement into two separate systems. investigation (investigation) and criminal prosecution (judicial process) as the most important part of law enforcement, is intended to be carried out with a separate subsystem. Investigation is the main function of the police subsystem, and prosecution is the main function of the prosecutor's subsystem.

Considering that the writer is a prosecutor, one of the reasons for this research is to provide readers with an understanding of the role of the Attorney General in applying the concept *Restorative Justice*. As one of the pillars of law enforcement, the prosecutor's office has a role in making legal breakthroughs.

In this regard, the Attorney General of the Republic of Indonesia namely Mr. ST. Burhauddin said that justice is not in the book, but in the heart. In administering trials and implementing the legal system, the Attorney General's Office has discretion through the Republic of Indonesia Attorney General Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice as a way to implement a more humane law. Restorative justice is the ultimate goal of justice which is to be achieved by returning to its original state, a balance of protection, the interests of victims and perpetrators of crimes that are not oriented towards retaliation. This vision change is a penal policy reform
which leads to a change in the purpose of sanctions that are no longer vengeful, but instead eliminate the stigmatization or classification as perpetrators of crimes and release the guilt of perpetrators.

The Attorney General of the Republic of Indonesia has issued the Attorney General's Regulation of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. This regulation was issued because the Attorney General's Office of the Republic of Indonesia as a government agency that handles cases must be able to realize legal certainty, legal order, justice and truth based on law and uphold religious norms and must explore living human values, law and justice in society.

Likewise, the settlement of criminal cases that prioritizes restorative justice, emphasizes recovery to its original state and balances protection and the interests of victims and perpetrators of crimes that are not oriented towards retaliation, is a legal requirement of society and is a mechanism that must be implemented. built on the exercise of prosecution authority and the reform of the criminal justice system.[30]

2. Relevance of the Concept of Restorative Justice with Victimology

The mention of restorative justice is a foreign terminology that has only been known in Indonesia since the 1960s with the term Restorative Justice. In several other developed countries, restorative justice is no longer just a wishful thinking by academics of criminal law and criminology. North America, Australia and several countries in Europe have implemented restorative justice in the conventional stages of the criminal justice process, starting from the stages of investigation, prosecution, adjudication and execution.[31]

The restorative justice approach process is carried out with a policy so that a transfer of the process of solving criminal acts is realized outside the criminal court process and is resolved outside the court through a process of deliberation to
consensus. Settlement by deliberation is actually not a new thing in Indonesia, even Indonesian customary law does not distinguish between criminal and civil cases, all cases can be resolved through deliberation to achieve balance or restore status.[32]

Victimology is present as a science that studies victims, in this case it also doubles up on the causes of victims and the consequences of victims. In the aspect of victimology, victims have a fairly broad meaning, because they are not only limited to individuals who are truly harmed, but also groups, corporations, the private sector or even the government.[33]

In the Crime Dictionary it is stated that a victim is a person who has received verbal or non-verbal suffering, loss of property or caused the loss of someone's life for minor acts or crimes committed by perpetrators of crimes or criminal acts and others.[34]

According to Arif Gosita, the concept of victimology is very broad, the victims here are those who suffer physically and morally due to the actions of other people, struggling for self-realization in the context of individual greed in getting what they want.

[30] Konsideran (menimbang) dalam Peraturan Kejaksaan Republik Indonesia Nomor 15 Tahun 2020 Tentang Penghentian Penuntutan Berdasarkan Keadilan Restroratif Justice

[31] Eriyantouw Wahid, Keadilan Restoratif Dan Peradilan Konvensional Dalam Hukum Pidana, Universitas Trisakti, Jakarta, 2009, hlm. 1.

[32] Arief, Barda Nawawi. Batas-batas Kemampuan Hukum Pidana Dalam Penanggulangan Kejahatan, Makalah Seminar Nasional Pendekatan Non Penal Dalam Penangulangan Kejahatan, Graha Santika Hotel, Semarang, 2 September 1996. hlm. 2

[33] Didik M.Arif mansur & Elisatri gultom, urgensi perlindungan korban kejahatan, PT.Raja Grafindo Persada, Jakarta, 2007 hlm. 39

[34] Bambang waluyo, viktimologi perlindungan korban dan saksi, Sinar Grafika, Jakareta hlm. 9

that they are not good and seriously violate or conflict with the interests and human rights of the aggrieved party, the causes and social reality that can be called victims, not only become victims of criminal acts (crimes), but can become victims of natural disasters, victim public policy and others.[35] [35]

The concept of Restorative Justice is relevant to Victimology, in terms of the Attorney General's Regulation of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice Article 1 point (2) explains that a victim is a person who has suffered physical, mental and/or economic harm as a result of the crime. . Whereas Article 1 Number (1) states that justice is restorative is the settlement of criminal cases involving perpetrators, victims, families of perpetrators/victims and other related parties to jointly seek a fair solution by prioritizing restoration of the original state of retribution. Therefore, even though the principle of restorative justice is raised, it is necessary to pay attention to the rights of victims from a victimological point of view.

3. Justice for Victims on the Principle of Restorative Justice

According to Prof. Muhammad Mustofa (Criminology, University of Indonesia) In the academic studies that have been presented, restorative justice is a very well-known postmodern theory of victimology. Victimology is the scientific study of victimization, including the relationship between victims and the criminal justice system and also the relationship between victims and groups another social group.

In this context, restorative justice is seen as an informal conflict resolution mechanism outside the formal justice system of a State, which aims to rebuild relations between parties in conflict with the pre-conflict State. The concept of restorative justice is an acknowledgment of Eastern legal philosophy which always seeks to resolve a conflict in order to restore relations between conflicting parties by using modern Western legal concepts that dominate legal thought.[36]

If in the past punishment was considered as moral criticism of shameful actions, now it must become moral criticism to correct the convict's behavior in the future. Previously, crime was a conflict that had to be resolved between the State and the perpetrators of crime, regardless of the victim, now crime is seen as a conflict that must be resolved between the perpetrator and the victim, so that social harmony can be achieved.

On the victim's side, restorative justice empowers the perpetrator to express sympathy for the victim and is best facilitated by meeting in a professional meeting. This restorative justice perspective is the result of changes in lex talionis law or retributive justice with an emphasis on effortsrestorative. In an effort to heal victims, choosing a more retributive and legalistic approach makes it difficult to treat victims' injuries. Thus, restorative justice seeks to emphasize the perpetrator's responsibility for his behavior that causes harm to others.[37]

In addition, restorative justice seeks to include in the judicial process those who are most directly affected by crime, namely victims and survivors. This method focuses on the injured party and the losses suffered. In the process of restorative justice, victims have the right to participate beyond the traditional system. Communities play an important role in the recovery process by setting standards of behavior, helping to hold stakeholders accountable, and providing support and opportunities for redress for participants.[38]

CONCLUSION

1. Attorney General of the Republic of Indonesia namely Mr. ST. Burhanuddin has issued the Attorney General's Regulation of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. This regulation was issued because the Attorney General's Office of the Republic of Indonesia as a state institution that has the duty of prosecution must be able to create legal certainty, legal order, justice and truth based on law and continue to prioritize the norms that apply in Indonesia, such as norms religion, decency, and decency. The Attorney General's Office of the Republic of Indonesia is also obliged to prioritize human values, law and justice that live in society. In addition, that the settlement of criminal cases by prioritizing restorative justice that focuses on restoration to its original state and equality of access to protection and the interests of victims and perpetrators of crimes that are not based on retaliation is a real legal necessity in society and a new mechanism that must be built into implementation prosecution authority and Innovation over the criminal justice system in Indonesia.
2. The concept of Restorative Justice has relevance to Victimology, referring to the Prosecutor's Office of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice Article 1 point (2) explained that victims are people who experience physical, mental, and/or economic losses that caused by a crime. While Article 1 Number (1) states that restorative justice is said to be the settlement of criminal cases involving perpetrators, victims, families

[35] Arif Gosita, masalah korban kejahatan, akademika pressindo, jakarta, 1983 hlm 75-76
[36] Muhammad Mustofa dalam penyampaian materi pada pelatihan pidana dan kriminologi oleh FH Unlam
[37] Siswanto Sunarso. H, Viktimologi dalam sistem peradilan pidana, Sinar Grafika, Jakarta, 2014, hlm. 157.
[38] https://nasional.tempo.co/read/1642464/4-anggota-polres-halmahera-utara-penganiaya mahasiswa-sudah-ditahan diakses pada kamis 06 Oktober 2022 Pukul 22.13 WIB.

of perpetrators/victims, and other related parties to jointly seek a fair solution, with an emphasis on restoration to its original state rather than retaliation. Therefore, even though the principle of restorative justice is put forward, victims' rights must also be seen from a victimological perspective.

3. On the victim's side, restorative justice gives rights to the perpetrator to be able to express his regrets to the victim, and should be given the opportunity to meet in a meeting that will be carried out professionally. This perspective of restorative justice is as a result of a shift in law from lex talionis or retributive justice to emphasis on restoration efforts. In an effort to recover victims, if the choice of a more retributive and legalistic approach is difficult to treat victims' wounds. So restorative justice seeks to emphasize the perpetrator's responsibility for his behavior that causes harm to others.

REFERENCES

BOOK

1) Abu Huraerah, *Kekerasan Terhadap Anak*, Nuansa Cendekia, Bandung, 2012.
2) Achmad Ali, Menguak Teori Hukum (Legal Theory) dam Teori Peradilan (Judicial Prudence) termasuk Interprestasi Undang-Undang (Legisprudence) (Jakarta: Kencana Prenada Media Group, 2009).
3) Anton Beker, dalam St. Harum Pudjiarto, RS, Hak Asasi Manusia kajian Filosofis dan Implementasinya Dalam Hukum Pidana di Indonesia, Universitas Atmajaya, Yogyakarta, 1999.
4) Arif Gosita, masalah korban kejahatan, akademika pressindo, jakarta, 1983.
5) Bambang waluyo, viktimologi perlindungan korban dan saksi, Sinar Grafika, Jakarta.
6) Barda Nawawi Arief, Kebijakan Legislatif dalam Penanggulangan Kejahatan dengan Pidana Penjara, Balai Penerbitan Undip, Semarang, 1996.
7) Barda Nawawi, Arief, Masalah Penegakan Hukum dan Kebijakan Penanggulangan Kejahatan, PT. Citra Aditya Bakti, Bandung, Cet ke 2. 2002.
8) Barda Nawawi Arief. Batas-batas Kemampuan Hukum Pidana Dalam Penanggulangan Kejahatan, Makalah Seminar Nasional Pendekatan Non Penal Dalam Penangulangan Kejahatan, Graha Santika Hotel, Semarang, 2 September 1996.
9) Didik M.Arif mansur & Elisatri gultom, urgensi perlindungan korban kejahatan, PT.Raja Grafindo Persada, Jakarta, 2007.
10) Eriyantouw Wahid, Keadilan Restoratif Dan Peradilan Konvensional Dalam Hukum Pidana, Universitas Trisakti, Jakarta, 2009.
11) Henny Nuraeny, dalam ringkasan disertasi program Dokter Ilmu Hukum Pascasarjana UNPAR, Kebijakan Hukum Pidana Terhadap Pencegahan Tindak Pidana Perdagangan Orang Dalam Perspektif Hukum dan Hak Asasi Manusia, 2010.
12) Ikatan Dokter Anak Indonesia, *Tumbuh Kembang Anak dan Remaja buku ajar II*, CV Sagung Seto, Jakarta, 2005.
13) Jimly Assiddiqie, Hak Asasi Manusia dalam Konstitusi Indonesia dari UUD 1945 sampai dengan Amandemen UUD 1945 Tahun 2002 (Jakarta: Prenada Media, 2005).
14) Koesparmono Irsan, Hukum dan Hak Asasi Manusia (Jakarta: Yayasan Brata Bhakti, 2009).
15) Leden Marpaung, Unsur-unsur Perbuatan Yang Dapat Dihukum, (Delik), Jakarta, Sinar Grafika, 1991.
16) Leden Marpaung, *Kejahatan Terhadap Kesusilaan dan Masalah Prevensinya*, Jakarta, Sinar Grafika, 1996.
17) Lilik Mulyadi, *Kapita Selekta Hukum Pidana Kriminologi dan Viktimologi*, Jakarta, Djambatan, 2004.
18) Maria Alfons, *Implentasi Perlindungan Indikasi Geografis Atas Produk-Produk Masyarakat Lokal Dalam Prespektif Hak kekayaan Intelektual*, Universitas Brawijaya, Malang, 2010.
19) Mukhlis R, "Peranan POLRI Menangani Demokrasi Masyarakat dalam Pemilihan Kepala Daerah Secara Langsung di Indonesia", Artikel pada *Jurnal Konstitusi*, BKK Fakultas Hukum Universitas Riau, kerjasama dengan Mahkamah Konstitusi, Vol. III No.2 November 2010.
20) Muladi dan Barda Nawawi Arief, Teori-Teori dan Kebijakan Pidana, Alumni, Bandung, 1984.
21) Moeljatno, Asas-asas Hukum Pidana, Cetakan Kedua, Bina Aksara, Jakarta, 1984.
22) Moeljatno, *Asas-asas Hukum Pidana Edisi Revisi*,Cetakan Kelima,Rineka Cipta, Jakarta, 2008.
23) Phillipus M. Hadjon, *Perlindungan Hukum bagi Rakyat Indonesia*, PT. Bina Ilmu, Surabaya, 1987.
24) Teguh Prasetyo dan Abdul Halim Barakatullah, *Politik Hukum Pidana*, Pustaka Pelajar, Yogyakarta, 2005.
25) Satjipto Raharjo, *Ilmu Hukum*, PT. Citra Aditya Bakti, Bandung, 2000.
26) Siswanto Sunarso. H, Viktimologi dalam sistem peradilan pidana, Sinar Grafika, Jakarta, 2014.
27) Soerjono Soekanto, *Metode Penelitian Hukum*, UII Press, Jakarta, 2010.
28) Soedarto, Hukum dan Hukum Pidana I , Alumni, Bandung, 1986.
29) Soedarto, Kapita Selekta Hukum Pidana, Alumni, Bandung, 1986.
30) Soedarto, *Hukum dan Hukum Pidana*, PT Alumni, Bandung, 2007.
31) Suryana, *Keperawatan Anak Untuk Siswa*, Cet.1, BGC, Jakarta, 1996

Other Sources

1) https://nasional.tempo.co/read/1642464/4-anggota-polres-halmahera-utara-penganiaya-mahasiswa-sudah-ditahan diakses pada kamis 06 Oktober 2022 Pukul 22.13 WIB.
2) www.komisiyudisial.go.id/frontend/news_detail/514/penegakan-hukum Diakses pada Minggu 27 Februari 2022 Pukul 23.00 wib.
3) http://tesishukum.com/pengertian-perlindungan-hukum/ Diakses pada 01 maret 2022 Pukul 11.00.
4) wikipedia.com
5) https://pa-lumajang.go.id/tugas-pokok-dan-fungsi diakses pada 1 Maret 2022 Pukul 12.00
6) Kemenppa.go.id diakses pada 2 maret 2022 pukul 16.00 WIB.
7) http://essays24.com/print/peran-kpai/47669.html diakses pada 2 maret 2022 pukul 17.40