


## Juridical Analysis Of Restorative Justice In Peaceful Settlement Of Cases

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| Article Info   | ABSTRACT   |
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| <b>Keywords:</b><br>Analysis,<br>Restorative Justice,<br>Peace   | The handling of criminal cases using a restorative justice approach is a specific and dynamic interactive relationship between the parties involved. The restorative justice movement has great potential to reform the way society responds to crime and wrongdoing. Restorative Justice is a shift in criminalization in the criminal justice system that prioritizes justice for victims and perpetrators of criminal acts, in addition to alternative punishments such as social work and others. The formulation in this study is How is restorative justice regulated according to applicable laws and regulations? What is the ideal concept of restorative justice in case settlement in Indonesia? The research method used in this study is a normative juridical research method, the result of the discussion in this study is that restorative justice is an effort to resolve criminal cases that is oriented towards restoring relationships between victims and perpetrators and their respective families as well as the community whose processes are carried out in accordance with laws and regulations both at the investigation or investigation level, the prosecution level and at the general justice level Law enforcement institutions and officials at every level of the criminal case settlement process facilitate, process and make minutes to ensure that the settlement of criminal cases is based on restorative justice and the ideal concept of restorative justice is a concept that provides justice value for both perpetrators and victims. "Restorative justice" as one of the efforts to seek a peaceful resolution of conflicts outside the court is still difficult to implement. |
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### INTRODUCTION

The handling of criminal cases by using criminal law as the main means, both material criminal law, formal criminal law and criminal enforcement law implemented through the criminal justice system to achieve certain objectives, is seen as a policy issue, then there are those who question whether it is necessary for the criminal act to be tackled, prevented, or controlled by using criminal sanctions. Efforts to overcome criminal acts are also essentially part of law enforcement efforts. Therefore, it is often said that criminal politics or criminal policies are also part of law *enforcement policy*. Law enforcement as a means to achieve legal goals should exert all energy so that the law is able to work to realize moral values in the law.

In the context of the implementation and enforcement of criminal law in Indonesia, there have been many cases in Indonesia that illustrate how bad the legal system is that does not provide justice and actually corners the community. In addition, the principle of criminal implementation in Indonesia, which is built on the basis of the retributive paradigm, namely the paradigm of resolving criminal cases with punishment for the perpetrator, is one of the factors that aggravate the condition of society in Indonesia.

As a criticism of the injustice of the implementation and enforcement of the law for the community, the concept of *Restorative Justice* or Restorative Justice emerged. Restorative Justice is a shift in criminalization in the criminal justice system that prioritizes justice for victims and perpetrators of criminal acts, in addition to alternative punishments such as social work and others. Bagir Manan, in his writing, elaborated on the substance of restorative justice which contains principles, including: "Building joint participation between perpetrators, victims, and community groups to resolve an event or criminal act. Placing perpetrators, victims, and the community as *stakeholders* who work together and directly try to find solutions that are seen as fair for all parties (*win-win solutions*)".

Rufinus Hutaaruk said that restorative justice focuses on the criminal liability process directly from the perpetrator to the victim and the community. If the perpetrators and victims as well as the community whose rights are violated feel that justice has been achieved through joint deliberation, then it is hoped that the implementation of criminal justice can be avoided. This shows that the perpetrator is not the main object of the *restorative justice* approach, but the sense of justice and conflict recovery itself is the main object".

The regulation of *restorative justice* has been regulated in various regulations, including:

1. Circular Letter of the Chief of the National Police of the Republic of Indonesia Number SE/8/VII/2018 of 2018 concerning the Application of *Restorative Justice* in the Settlement of Criminal Cases;
2. Regulation of the Chief of the National Police of the Republic of Indonesia Number 6 of 2019 concerning Criminal Investigation and Regulation of the Prosecutor of the Republic of Indonesia Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice;
3. Decree of the Director General of the General Judiciary of the Supreme Court of the Republic of Indonesia Number 1691/DJU/SK/PS.00/12/2020 concerning the Implementation of Guidelines for the Implementation of *Restorative Justice* in the General Court.

The main thing that is encouraged in handling criminal cases using a *restorative justice* approach, is a specific and dynamic interactive relationship between the parties involved. The *restorative justice* movement has great potential to reform the way society responds to crime and wrongdoing. The benefits of settlement through the *restorative justice* mechanism are:

- a. Involving many parties in responding to criminal acts, not only limited to the affairs of the government and perpetrators of criminal acts, but also victims and the community;
- b. Recognize the importance of community involvement.

Based on the description above, the author sets the title of this research as: Juridical Analysis of Restorative Justice in Peaceful Case Settlement. Based on the background description above, the author formulates the problems to be discussed are:

1. How is restorative justice regulated according to applicable laws and regulations?
2. What is the ideal concept of restorative justice in case settlement in Indonesia?.

The type of research used in this legal research is by using the normative juridical approach method. Normative law research is research that prioritizes literature data, namely research on secondary data. The secondary data can be in the form of primary, secondary and tertiary legal materials. This research includes research on positive legal provisions that apply in Indonesia related to the juridical analysis of *restorative justice* in the peaceful settlement of cases.

### **Restorative Justice Arrangements According To Applicable Laws And Regulations**

In practice, all law enforcement institutions in Indonesia, both the Supreme Court, the Attorney General's Office, the Indonesian National Police, and the Ministry of Law and Human Rights have adopted the principle of restorative justice as one of the ways to resolve a criminal case regulated in the provisions of Article 1 number 2 of the Memorandum of Agreement 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. Attorney General of the Republic of Indonesia, and Chief of the National Police of the Republic of Indonesia Number 131/KMS/SKB/X/2012, Number HH-08. HM.03.02 of 2012, Number KEP06/E/EJP/10/2012, Number B/39/X/2012 dated October 17, 2012 concerning the Implementation of the Implementation of Adjustment of Limits on Minor Offenses and the Amount of Fines, Expedited Examination Procedures and the Application of Restorative Justice which states as follows: "Restorative Justice is the settlement of minor criminal cases committed by investigators at the investigation stage or judges from the beginning of the trial by involving the perpetrators, victims, families, perpetrators/victims, and related community leaders to jointly seek a just settlement by emphasizing restoration to the original state".

The basic principle of restorative justice is the restoration of victims who suffer from crime by providing compensation to the victims, peace, perpetrators of social work and other agreements. Fair law in restorative justice is certainly not biased, impartial, not arbitrary, and only on the side of the truth in accordance with the applicable laws and regulations and considers the equality of compensation rights and balance in every aspect of life. Although the principle of *restorative justice* is one of the principles of law enforcement in the settlement of cases that is used as an instrument of recovery and has been implemented by the Supreme Court in the form of policy enforcement (Supreme Court Regulation and Supreme Court Circular), its implementation in the Indonesian judicial system is still not optimal.

The concept of *the Restorative Justice* approach which is an approach that focuses more on the conditions of creating justice and balance for the perpetrators of crimes and the victims themselves, *Restorative Justice* itself has the meaning of restorative justice, where the restoration in question is the restoration of the relationship between the perpetrator and the victim in the settlement of criminal cases, it is a success in enforcement law in Indonesia, because the judiciary that is usually devoted to criminalization is changed to a process of

dialogue or mediation between the victim and the perpetrator to create peace between the relationship between the perpetrator and the victim so that from this process it creates an agreement on a fairer and more balanced settlement of criminal cases for the perpetrator and the victim.

The regulation of restorative justice has been regulated by the SE Chief of Police No. SE/8/VII/2018 of 2018 concerning the Application of Restorative Justice in the Settlement of Criminal Cases; Regulation of the National Police Chief No. 6 of 2019 concerning Criminal Investigation; Prosecutor's Regulation No. 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice; and Decree of the Director General of the General Judicial Agency of the Supreme Court of the Republic of Indonesia No.1691/DJU/SK/PS.00/12/2020 concerning the Implementation of Guidelines for the Implementation of Restorative Justice. Then Law No. 1 of 2023 concerning the Criminal Code (KUHP) also regulates *restorative justice* although it is not explicit. Namely, as stipulated in Article 54 which regulates criminal guidelines, it is mandatory to consider forgiveness from the victim or the victim's family. The Criminal Code also opens opportunities for judges to grant pardons or judicial pardons.

Currently, the practice of all law enforcement institutions in Indonesia, including the Supreme Court, the Attorney General's Office, the Indonesian National Police, and the Ministry of Law and Human Rights of the Republic of Indonesia, has adopted the principle of restorative justice as one of the ways to resolve a criminal case. In 2012 these four institutions made a joint agreement, namely a Memorandum of Agreement 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, and the Chief of the National Police of the Republic of Indonesia Number 131/KMS/SKB/X/2012, Number M-HH07. HM.03.02 of 2012, Number KEP06/E/EJP/10/2012, Number B/39/X/2012 dated October 17, 2012 concerning the Implementation of the Implementation of Adjustment of Limits on Minor Offenses and the Amount of Fines, Rapid Examination Procedures and the Application of *Restorative Justice* ("Memorandum of Agreement"), which regulates the settlement of criminal cases through the principle of restorative justice (*Restorative Justice*). In this Memorandum of Agreement, the principle of restorative justice (*Restorative Justice*) for the first time gets a definition in Article 1 paragraph (2), namely:

The understanding of Restorative Justice law is based on the following regulations:

1. Article 310 of the Criminal Code (KUHP)
2. Article 205 of the Criminal Procedure Code (KUHP)
3. Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2012 which discusses the Adjustment of Limits on Misdemeanor Crimes and the Amount of Fines in the Criminal Code
4. The Memorandum of Understanding was signed by the Chief Justice of the Supreme Court, the Minister of Law and Human Rights, the Attorney General, and the Chief of the National Police of the Republic of Indonesia through various letter numbers covering aspects of the implementation of the Adjustment of the Limit of Misdemeanor Crimes,

Rapid Examination Procedures, and the Implementation of Restorative Justice on October 17, 2012.

5. Letter of the Director General of the General Judiciary Agency Number 301 of 2015 which regulates the Settlement of Misdemeanor Crimes.
6. National Police Regulation Number 8 of 2021 which discusses the Handling of Criminal Acts based on Restorative Justice.
7. Attorney General's Regulation Number 15 of 2020 which regulates the Termination of Prosecution based on Restorative Justice.

These regulations regulate the settlement of criminal cases through the Restorative Justice approach, especially for minor crimes that include certain articles in the Criminal Code (KUHP). This approach aims to reach an agreement that prioritizes recovery, dialogue, and reconciliation between perpetrators, victims, and related parties, and focuses on resolving cases fairly.

In judicial practice in Indonesia, the Supreme Court of the Republic of Indonesia issued a decision that prioritized the principle of restorative justice and the decision has become a landmark decision. In the laws and regulations that apply in Indonesia, there are provisions that explicitly (firmly) regulate the application of restorative justice in the criminal justice system and there are also laws and regulations that contain the spirit of restorative justice. Constitutionally, Indonesia as a State of Law adheres to the principle of equality before law.

Likewise for victims who must receive legal services and protection. Not only suspects or defendants are protected by their rights, but also victims and witnesses must be protected. It is natural if there is a balance between the protection of the suspect/defendant and the protection of the victim and/or witnesses. The 1945 Constitution of the Republic of Indonesia regulates human rights in Articles 28A to 28J. Articles 28D, 28G, 28I and 28J, 1945 Constitution of the Republic of Indonesia, can be used as a reference/guideline.

The various provisions of Laws and Regulations that are expressly (expilitive) or contain the spirit of restorative justice are as follows:

a. Criminal Code (KUHP)

In the Criminal Code, provisions that contain the spirit of restorative justice are contained in Article 82 of the Criminal Code. The provisions of Article 82 of the Criminal Code are the basis for the abolition of the right to prosecution for public prosecutors. In the article, it is stated that the right to sue for violations that are only threatened with a fine, no longer applies if the maximum fine has been paid, and if the case has already been submitted to the prosecutor, the payment is accompanied by case costs.

b. Criminal Procedure Code (KUHP)

In the Criminal Procedure Code, the provisions that contain the spirit of restorative justice are contained in Article 98 of the Criminal Procedure Code concerning lawsuits for compensation for criminal acts that harm other parties. The claim for compensation is based on the idea that if a criminal act causes harm to another person, then the person can file a claim for compensation that can be submitted together with the examination of his criminal case (merger of cases), before the public prosecutor reads his claim.



- c. Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System.  
Law Number 11 of 2012 is the only law and regulation that is the clearest in implementing the settlement of criminal cases through a restorative justice approach. In the aqua law, the mechanism for resolving juvenile criminal cases outside the court is regulated with provisions regarding diversion legal institutions. According to Article 1 point 7 of Law Number 11 of 2012, "diversion is the transfer of the settlement of a child's case from the criminal justice process to a process outside the criminal court". Furthermore, in article 5 paragraph (1) of Law Number 11 of 2012 it is expressly stated that the juvenile criminal justice system must prioritize the restorative justice approach, which is an approach that prioritizes the settlement of criminal cases by involving the perpetrator, victim, family, perpetrator of the victim and related parties to jointly seek a fair settlement by emphasizing restoration to the original state. and not retaliation.
- d. Law Number 32 of 2009 concerning Environmental Protection and Management.  
Law Number 32 of 2009 concerning Environmental Protection and Management is essentially a law and regulation in the administrative field, but it also regulates criminal provisions. In the a quo law, there is also a dispute resolution mechanism using a restorative justice approach. Article 84 paragraph (3) emphasizes that the mechanism for resolving environmental disputes through the court can only be pursued if the dispute resolution efforts outside the selected court are declared unsuccessful by one or the parties to the dispute. This shows that the dispute resolution mechanism through the court institution is a last resort (ultimum remedium).
- e. Law of the Republic of Indonesia Number 21 of 2007 concerning the Eradication of Trafficking in Persons.  
Law Number 21 of 2007 regulates the rights of victims of trafficking in persons (trafficking in persons or human trafficking), one of which is the right to restitution (compensation) and rehabilitation. According to article 1, points 13 and 14 of the law, a quo restitution is the payment of compensation charged to the perpetrator based on a court decision that has permanent legal force for material and/or immaterial losses suffered by the victim or his heirs. Meanwhile, rehabilitation is the recovery from disturbances to physical, psychological, and social conditions in order to be able to carry out their role again reasonably both in the family and in society.
- f. Law of the Republic of Indonesia Number 13 of 2006 concerning the Protection of Witnesses and Victims jo. Law Number 31 of 2014.  
The values of restorative justice in Law Number 13 of 2006 are reflected in Article 7 of the a quo law which states that victims through witness and victim protection institutions (LPSK) have the right to apply to the court in the form of the right to compensation in cases of gross human rights violations and the right to restitution or compensation for which the perpetrator of the crime is responsible.
- g. Law of the Republic of Indonesia Number 11 of 2006 concerning the Government of Aceh.

In Law of the Republic of Indonesia Number 11 of 2006, there is indeed no provision that expressly contains the values of restorative justice, especially with the provisions that regulate the Gampong Customary Court or the Peace Court.

- h. Law Number 22 of 2009 concerning Road Traffic and Transportation.

The concept of restorative justice in the settlement of traffic accident cases will be very open with the issuance of the Circular Letter of the Indonesian National Police Number: SE/8/VII/2018 concerning the Application of *Restorative Justice* in the Settlement of Criminal Cases, in connection with the development of criminal objectives which are no longer only focused on efforts to victimize, but have led to improvement efforts in a more humane direction. So that with the application of the concept of restorative justice, prison sentences are not the best solution in resolving traffic accident cases, because the losses caused to victims can still be restored so that the spirit to seek recovery as well as create a sense of justice and humanity, prioritizing the interests of victims and perpetrators.

- i. Law Number 28 of 2014 concerning Copyright Article 95 paragraph (4) and Law Number 13 of 2016 concerning Patents Article 154, regulate the mediation process before criminal prosecution which is adopted by the penal mediation model to overcome the problem of crime.

- j. Letter of the National Police Chief No. Pol: B/3022/XII/2009/SDOPS dated December 14, 2009 concerning Case Handling through Alternative Dispute Resolution (ADR).

Dispute resolution through non-litigation channels or better known as Alternative Dispute Resolution (ADR) is regulated in Law Number 9 of 1999 concerning Arbitration and Alternative Dispute Resolution. The dispute resolution mechanism in this way is classified as non-litigation media, which is a cooperative conflict or dispute resolution directed to an agreement or solution to a conflict or dispute that is a win-win solution.

- k. Regulation of the National Police Chief No. 6 of 2019 concerning Criminal Investigation. Restorative justice does not only talk about the revision of the Criminal Code and the Criminal Code, it only adds the role of mediator to investigators. Restorative justice is the spirit of reconciliation and rehabilitation of victims and perpetrators of crimes with the middle-of-the-road method.

- l. SE Chief of Police No. SE/8/VII/2018 of 2018 concerning the Application of Restorative Justice in the Settlement of Criminal Cases. In simple terms, Restorative Justice in criminal law can be interpreted as an approach to achieve justice by restoring the circumstances of a criminal event that occurred

- m. The National Police Chief's Regulation No. 6 of 2019 is the settlement of criminal cases involving the perpetrator, the victim and/or his family and related parties with the aim of creating justice for all parties by focusing on the recovery of the victim, but not for the recovery of the perpetrator and there is no emphasis on restoring the relationship between the victim and the perpetrator. The target is to achieve peace, regardless of its substance.

- n. Regulation of the National Police of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. The Restorative

Justice approach, if done correctly, is believed to rehabilitate the behavior of the perpetrator, increase *the deterrence* of criminal acts, make the parties aware of the importance of the reinforcement *of norms*, and enable the recovery of victims' losses through the provision of compensation or restitution.

- o. Indonesian Prosecutor's Regulation No. 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice. The termination of prosecution in this restorative justice approach is based on the consideration of a number of principles, namely:
  1. Victims' interests and other protected legal interests
  2. Avoiding negative stigma
  3. Avoidance of retaliation
  4. Community response and harmony; and
  5. Propriety, decency, and public order
- p. Guidelines for Restorative Justice in the General Judiciary, Attachment to the Decree of the Director General of the General Judiciary Number 1691/DJU/SK/PS.00/12/2020.
- q. The Supreme Court's policy is related to *restorative justice*. *First*, Perma No.2 of 2012 concerning the Settlement of Limits on Minor Crimes (Tipiring) and the Amount of Fines in the Criminal Code. *Second*, a memorandum of agreement with the Chief Justice of the Supreme Court of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, the Minister of Law and Human Rights, and the Chief of the Indonesian Police No.131/KMA/SKB/X/2012 dated October 17, 2012 concerning the Implementation of the Implementation of Adjustment of Limits on Minor Crimes and the Amount of Fines, Rapid Examination Procedures and the Implementation of *Restorative Justice*. *Third*, the establishment of a Working Group on Case Handling Based on *Restorative Justice* in December 2021. *Fourth*, the Decree of the Director General of Badilum No.1691/DJU/DK/PS.00/12/2020 concerning the Implementation of Guidelines for the Implementation of Restorative Justice in 2020 (suspended and will be replaced by PERMA). *Fifth*, integrated technical guidance has been held for handling restorative justice-based cases in the Badilum environment since 2021 until now.

### **The Ideal Concept Of Restorative Justice In Case Resolution In Indonesia**

Restorative Justice is the settlement of criminal acts by involving the perpetrator, the victim, the family of the perpetrator/victim, and other related parties, to jointly seek a fair settlement by emphasizing restoration to the original state, not retaliation (imprisonment). In the attachment to this Decree, it is stated that restorative justice in case settlement can be used as an instrument for restoring justice and has been implemented by the Supreme Court in the form of policy enforcement (PERMA and SEMA). But so far its implementation in the criminal justice system is still not optimal.

This decision is intended to encourage the optimization of the implementation of Perma, Sema, and the Decree of the Chief Justice of the Supreme Court which regulates the implementation of Restorative Justice in the courts, in addition to the implementation of Restorative Justice is to reform the criminal justice system which still prioritizes prison sentences. The development of the penal system no longer rests on the perpetrators, but has



led to the alignment of the interests of victim recovery and criminal accountability. Then, the purpose of issuing this Decree is to make it easier for courts in the general judicial environment to understand and implement the implementation of the Supreme Court Regulations, the Supreme Court Circular Letter and the Decree of the Chief Justice of the Supreme Court which regulates the implementation of *Restorative Justice*, encouraging the increase in the application of *Restorative Justice* which has been regulated by the Supreme Court in decisions produced by the panel of judges, and the fulfillment of the principles of fast, simple and low-cost justice.

The implementation of *Restorative Justice* must be enforced and applied by all district courts in Indonesia, especially in terms of settling cases in minor crimes, cases of children and women facing the law and narcotics cases. Especially for narcotics cases, the Restorative Justice approach can only be applied to addicts, abusers, narcotics dependence, victims of abuse, and narcotics for one-day use. This is as mandated in Article 1 of the Joint Regulation of the Chairman of the Supreme Court, the Minister of Law and Human Rights, the Minister of Health, the Minister of Social Affairs, the Attorney General, the Chief of the National Police, the Head of BNN concerning the Handling of Narcotics Addicts and Victims of Narcotics Abuse into Rehabilitation Institutions.

In this case, the ideal concept of restorative justice is taken by the researcher as an example in handling the case of children as perpetrators of narcotics crimes. The handling of child cases as perpetrators of narcotics crimes is a concept that provides justice values for perpetrators and victims, for this reason it is necessary to reform Law Number 35 of 2009 related to sanctions for children who commit narcotics crimes by abolishing the penalty of imprisonment half of the adult sentence. It is necessary to build rehabilitation places that specifically deal with children of narcotics offenders.

The ideal concept of restorative justice is a concept that provides justice value for both perpetrators and victims. Restorative Justice as a goal in carrying out diversion in the Juvenile Criminal Justice System from the judicial process so that it can avoid stigma against children who are facing the law and the child can return to his social environment in a reasonable manner. Regulations on handling children of criminal offenders in Indonesia are still not optimal. Moreover, the rules for rehabilitation for child addicts, because for children are still mixed with adults, future efforts to rehabilitate together with the whole family, because it is not only about drugs, but there may be mistakes in parenting patterns.

In addition, the reform effort in the Law on the Juvenile Criminal Justice System is the need to delete the provisions of Article 7 paragraph (2) in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Diversion should be required not only for criminal threats under 7 (seven) years but also for over 7 (seven) years without distinction. The severity or lightness of the crime committed as a consideration for law enforcement to diversion should be based on merit and not limited by the Juvenile Criminal Justice System Law.

It is also necessary to state that the concept of restorative justice can not only be applied to the Supreme Court (MA). In the criminal justice process in general and the criminal justice process in Indonesia in particular, there are several stages or processes that must be passed for justice seekers both at the level of investigation, investigation, prosecution, examination

in court to the stage of imposing a judge's decision. Even at the stage where justice seekers take legal remedies (both ordinary legal remedies and extraordinary legal remedies). Thus, the author considers that the adoption and application of the concept of restorative justice should be carried out at various levels or judicial processes as stated above.

According to the concept of Restorative justice, the handling of crimes that occur is not only the responsibility of the state, but also the responsibility of the community. Therefore, the concept of restorative justice is built based on the understanding that crimes that have caused losses must be recovered, both the losses suffered by the victims and the losses and those borne by the community. The involvement of community members is urgently needed to help correct mistakes and irregularities that occur around the community environment concerned. Giving awards and respect to the victim by requiring the perpetrator to recover or as a result of the crime he has committed. Recovery carried out by the perpetrator can be in the form of compensation, social work or making a certain improvement or activity in accordance with a joint decision that has been agreed upon by all parties in the meeting that was carried out. The shift in thinking from the traditional punishment model is the existence of a punishment model that provides justice, especially justice directed at community justice. This is a starting point or the basis for the birth of Restorative justice in any country. The shift in thinking shows that in the juvenile criminal justice system, there has been an effort to pay attention and understand the settlement of a criminal case committed with the aim of achieving justice for all parties involved in the crime.

According to National Police Chief General Listyo Sigit Prabowo, in general, the number of crimes that occurred throughout Indonesia in 2022 was 276,507 cases, of which this figure increased by 18,764 cases or 7.3% compared to 2021 as many as 257,743 cases. For case settlement, in 2022 there were 200,147 cases, of which the figure decreased by 1,877 cases or 0.9% compared to 202,024 cases in 2021. Sigit said that his party also prioritizes *restorative justice* in every problem. There were 15,809 cases that were applied restorative justice. This can be seen from the number of cases carried out by *restorative justice* has increased. In 2022, there were 15,809 cases that were successfully carried out by *restorative justice*, of which the figure increased by 1,672 cases or 11.8%, compared to 14,137 cases in 2021. According to him, the implementation of *restorative justice* will continue to be improved in the future, so that it is able to solve problems and fulfill the community's sense of justice. However, if *restorative justice* efforts have not been able to help solve problems between communities, then the National Police must process every complaint/report of problems from the community professionally and procedurally in accordance with applicable regulations.

One of the successful cases of *restorative justice* was the criminal act of attempted theft of LPG gas cylinders by a grandfather in Talun District, Blitar Regency, East Java Province. As is known, case settlement through *restorative justice* is carried out in accordance with applicable requirements. The conditions are that the suspect has only committed a criminal act for the first time, a criminal threat of less than five years, and a loss for the crime of less than Rp 2.5 million. *Restorative justice* can also fail or fail because there is no agreement between the two parties. For example, the victim does not want to continue the *restorative justice*. So, the case continues to the court. For example, the settlement of the case

of student abuse in Pidie Regency through restorative justice failed, so the case continued with the transfer of the case to the prosecutor's office.

"*Restorative justice*" as one of the efforts to seek a peaceful resolution of conflicts outside the court is still difficult to implement. In Indonesia, there are many customary laws that can become *restorative justice*, but their existence is not recognized by the state or codified in national law. Customary law can resolve conflicts that arise in society and provide satisfaction to the parties to the conflict. The emergence of the idea of *restorative justice* as a criticism of the implementation of the criminal justice system with imprisonment is considered ineffective in resolving social conflicts. The reason is that the parties involved in the conflict are not involved in conflict resolution. The victim is still a victim, the perpetrator who is imprisoned also raises new problems for the family and so on.

## CONCLUSION

Restorative justice is an effort to resolve criminal cases that is oriented towards restoring the relationship between the victim and the perpetrator and their respective families as well as the community whose process is carried out in accordance with laws and regulations both at the investigation or investigation level, the prosecution level and at the general justice level. Law enforcement institutions and officials at every level of the criminal case settlement process facilitate, process and make minutes to ensure that the settlement of criminal cases based on restorative justice will provide benefits in accordance with the principles and objectives of the application of justice restoration in restoring the relationship between victims, perpetrators and the community which can reduce the burden on the state and above all efforts to provide protection for victims of criminal justice punishment. The ideal concept of *restorative justice* is a concept that provides justice value for both perpetrators and victims. "*Restorative justice*" as one of the efforts to seek a peaceful resolution of conflicts outside the court is still difficult to implement. In Indonesia, there are many customary laws that can become *restorative justice*, but their existence is not recognized by the state or codified in national law. Customary law can resolve conflicts that arise in society and provide satisfaction to the parties to the conflict. The emergence of the idea of restorative justice as a criticism of the implementation of the criminal justice system with imprisonment is considered ineffective in resolving social conflicts. The reason is that the parties involved in the conflict are not involved in conflict resolution. The victim is still a victim, the perpetrator who is imprisoned also raises new problems for the family and so on. Suggestion; The importance of applying restorative justice in the settlement of criminal cases needs to be followed by the professionalism of criminal law enforcement officials both at the investigation or investigation level, at the prosecution level and at the general justice level. In the process of resolving criminal cases by applying restorative justice, criminal law enforcement officials at various levels must understand and respond that restorative justice is a new paradigm in the criminal justice system replacing the retributive justice model in an effort to prevent, reduce and overcome crime in Indonesia. In the preparation of the Draft Criminal Procedure Code and the new Draft Criminal Code, it is very urgent to include expressly and clearly the articles that regulate restorative justice, especially those related to efforts to optimize the protection and

enforcement of the rights of victims of criminal acts as well as articles that regulate lighter and shorter criminal sanctions, Criminal sanctions do not prioritize imprisonment, as well as other punitive actions which are the application of justice restoration for the benefit of victims, perpetrators, society and even the state.

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