

Restorative Justice Attorney, Police, and Supreme Court of the Republic of Indonesia

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Abstract. Until now, there has been no common perception of Restorative Justice for law enforcement officials, especially the prosecutor's office, the Police, and the Supreme Court of the Republic of Indonesia, in one rule of law, so as investigators and investigators, it is as if each of them can be a judicial body that can decide peace efforts in justice outside the court. In the Police, restorative justice is regulated through State Police Regulation Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice. Meanwhile, at the Attorney General's Office, based on Attorney General Regulation Number 15 of 2020 and JAM Pidum Circular Number: 01/E/EJP/02/2022 dated 10 February 2022 concerning Implementation of Termination of Prosecution Based on Restorative Justice. The decision of the Director General of the Supreme Court of the Republic of Indonesia No. 1691/DJU/SK/PS.00/12/2020 concerning the Enforcement of Guidelines for Implementing Restorative Justice. The application of restorative justice is only within the scope of minor criminal cases, children's cases, women's cases in conflict with the law, and narcotics cases. In criminal cases involving minors, such as the latest news regarding the persecution of David Ozora (17 years), the Attorney General's Office stated that Agnes (AG), aged 15, partner of Mario Dandi, who participated in the persecution by the Attorney General's Office, received the right to diversion.

Keywords: Diversion; Restorative Justice; Constitution.

1. Introduction

Law and law enforcement do not exist in a vacuum, so the goal of goodness in efforts to improve essential justice even in all its shortcomings is a step taken through Restorative Justice.[1] Restorative justice is a law enforcement strategy that still needs to be improved and perfected so that it can become an institutionalized legal system so that the transformation of von Venal mediation based on prerequisite justice can be accepted as a social institution that is present in society and becomes part of society itself.[2]

Helpful equity focuses on legitimate settlement to make a settlement on the settlement of criminal cases. Helpful equity is one of the standards of policing settling cases that can be utilized as an instrument of recuperation and have been executed by the High Court as strategy requirement, yet its execution in the Indonesian law enforcement framework has not been done ideally.

Recently, a juvenile criminal case shocked the law in Indonesia, namely the case of the persecution of David Ozora (17 years), the Attorney General's Office said that Agnes (AG) was 15 years old as a minor, in the case of Mario Dandi where the DKI Jakarta High Court offered the right to diversion option. namely peace efforts if there is a peace agreement from both

parties, through the Restorative Justice step it is given because the child perpetrator AG was to make peace with the David Ozora Victim's Family because he was involved in the persecution because according to the law, one of the perpetrators and the victim were minors.

According to the DKI Jakarta High Prosecutor's Office, it is an effort that is offered to parties when it is carried out during the investigation process at the Police and if there is no agreement, it will be continued at the Prosecutor's Office and the Prosecutor's Office will also offer the Conciliation effort.[3]

It is a controversy with the law that at that time the victim was not in normal terms in the sense that the victim was not aware of the consequences of the abuse carried out by the perpetrators, including AG, so there was no agreement between the victim and the perpetrator in discussing diversion. Therefore, the case is still being brought in for further examination at the next stage.[4]

In the Police, supportive equity is controlled through State Police Guideline Number 8 of 2021 concerning the Treatment of Violations In light of Helpful Equity. In the meantime at the Head legal officer's office, in view of Principal legal officer Guideline Number 15 of 2020 and JAM Pidum Round Number: 01/E/EJP/02/2022 dated 10 February 2022 concerning Execution of End of Arraignment In light of Helpful Equity. The choice of the Chief General of the High Court of the Republic of Indonesia No. 1691/DJU/SK/PS.00/12/2020 concerning the Authorization of Rules for Carrying out Supportive Equity.

2. Problem Formulation

In light of the foundation of the issue over, the plan of the issue in this composing is that as of not long ago there is no normal impression of Helpful Equity for policing, particularly the examiner's office, the Police, and the High Court of the Republic of Indonesia, in one regulation, so exceptionally that as specialists and examiners maybe each can be a legal body that can choose harmony endeavors in equity outside the court. Apart from the fact that there is no law other than Law Number 11 of 2012, the Police and prosecutors seem to be able to decide a case.

3. Research Objectives

The motivation behind this examination is to figure out the similitude of view of Supportive Equity to regulation masters as a worldview of discipline in Indonesia as an approach to choosing harmony endeavors in equity outside the court.

4. Methodology

The research is included in the category of normative legal research, namely research conducted to identify legal rules, legal doctrines, and legal principles to answer existing legal questions and generate arguments, hypotheses, or concepts. The legal approach is the chosen approach.

Information were broke down utilizing a subjective engaging methodology, in particular introducing in full the legitimate occasions which are the subject of the review and dissecting them utilizing hypotheses, ideas, or legitimate standards and positive regulation that are straightforward from a specific logical viewpoint.

5. Result And Discussion

According to Prayitno, restorative justice is usually understood as a value-based strategy for resolving conflict and injustice that places equal emphasis on those who have been injured, those who have caused losses, and affected communities. Procedures for investigation and prosecution, especially for victims of criminal acts while still imposing sanctions on perpetrators of criminal, need to be improved.[5]

Restorative justice is a potential solution. In contrast to imprisonment, the process of resolving criminal cases places more emphasis on conflict resolution.[6] Currently, it is anticipated that alternative dispute resolution will be used to resolve crimes based on restorative justice.

6. Discussion

Helpful equity is a condemning idea, yet as a condemning idea, it isn't simply restricted to criminal regulation arrangements (formal and material).

Helpful Equity should likewise be seen according to the point of view of criminal science and the punitive framework. As per Bagir Manan, in his works, the substance of Helpful Equity contains standards, including: 'Building cooperation between culprits, casualties, and local gatherings in settling an occasion or wrongdoing. Putting culprits, casualties, and the local area as partners who work with policing reestablish equity.

The pursuit of restorative justice, sometimes known as restorative justice, is a new strategy for dealing with criminal cases.

As opposed to the ongoing framework (the traditional criminal framework), the procedure or idea of helpful equity puts more accentuation on the immediate contribution of culprits, casualties, and the overall population in the settlement of criminal cases. Thus, this generally utilized technique is occasionally known as the "non-state equity framework", in which the state plays practically no part in the settlement of criminal cases. Nonetheless, the presence of a helpful equity approach or idea is impacted by a few inquiries, both hypothetically and for all intents and purposes. The fundamental obstruction to maintaining or rehearsing the idea or methodology of supportive equity is attempting to find an answer that is viewed as fair for all gatherings (mutual benefit arrangements).

Connections can likewise be reestablished during recuperation between the culprit and the person in question. This compensation is based on an agreement between the victim and the perpetrator. Victims express harm, and perpetrators are given opportunities to make amends through reparations, conciliation, social work, or other arrangements.

The prolonged use of the traditional penalty system prevents related parties from actively participating in the resolution of ongoing disputes.

Community involvement is critical as it appears that only criminal convictions are the focus of attention, obviating the need to identify the root causes of the problem.

Howard Zehr has the following to say regarding the aims of restorative justice:

1. Give decisions in criminal cases to the most interested parties
2. Concentrating on laws is better for healing and, ideally, for progress law
3. Reducing the possibility of future wars or other problems. At least three (three) of the following conditions must be met for restorative justice to be carried out:

- 1) Determine the loss or damage and take action to repair it
- 2) Involve all interested parties (all stakeholders); And
- 3) Changing the manner in which the state and society manage culprits by forcing criminal punishments into an example of helpful relations between culprits from one perspective and casualties on the other.

What's more, supportive equity can be utilized against youngsters or ladies who struggle with the law, kids who are casualties or observers of wrongdoings, to junkies or medication victimizers.

In helpful equity, there are fundamental standards which are rebuilding to casualties who have endured because of wrongdoing by giving remuneration to casualties, harmony, culprits who complete social work, or different arrangements.

A solicitation for harmony after the conventional necessities has been satisfied is submitted to the specialist's boss for endorsement. After the application has been supported by prevalent agents like the Criminal Examination Office, the Regional Police Chief, and the Police Chief, then wait for the time to be determined for the implementation of the signing of the peace statement.

Procedural and law enforcement components that emphasis on discipline are changed to discourse and intercession cycles to make a settlement on an all the more and adjusted settlement of criminal cases for casualties and culprits. (Jecky Tengens, 2011)

The background of thought that underlies the concept of restorative justice is a criminal system that does not seem to have a deterrent effect on perpetrators of criminal acts. This has resulted in prisons becoming over capacity and causing many criminal acts within the prison environment. Not to mention the number of prison supervisors who are not balanced with the number of convicts. The function of prisons is to become a place for convicts, who are currently known as prisoners of correctional institutions, to learn about other crimes. So that this Restorative Justice method becomes a strategy to reduce prisoners in prisons where prisoners can become even more evil.

Hypothetically, a crook case can be shut by regulation and the indictment can be ended in light of supportive equity in the event that few circumstances are met, namely:

1. The suspect is the initial chance to carry out a wrongdoing,
2. The wrongdoing is just deserving of a fine or deserving of detainment for not over 5 years, and
3. The wrongdoing is perpetrated with the worth of proof or misfortunes caused because of the wrongdoing of not more than Rp. 2.500.000,-.

Practically speaking, criminal cases that ought to be settled in a supportive way are as yet being inspected in court, while these cases can be halted or settled at the examination stage at the Police or the arraignment stage at the examiner's office.[7]

Thus, the weight on the courts increments and the weight on LAPAS which obliges detainees. As open regulation, criminal regulation directs sanctions for culprits of criminal goes about as discipline for hurting the interests of society. One of the crook sanctions is detainment. Jail in the idea of retributive equity is a type of wretchedness for culprits which is a prize for culprits and the reason for the criminal regulation itself. Wrongdoing is a discipline as torment or enduring which is an honor and the main component in criminal regulation.

"Restorative justice in 2022 totaled 15,809 cases, or this number increased by 1,672 cases or 11.8 percent when compared to 2021 which was 14,137 cases," said General Listyo Sigit in a joint meeting with Commission III of the DPR in Jakarta, Wednesday (12/4/2023), which is

guided by Perpol Number 8 of 2021 concerning Criminal Handling based on Restorative Justice which must meet formal and material requirements.

However, crimes that offend people's sense of justice, crimes that are of public concern, as well as crimes against women and children, must be dealt with strictly according to the regulations in force.

"The number of cases that were successfully resolved using a restorative justice approach was 1,454 cases," said the Head of the AGO Ketut Sumedana in his statement when delivering the 2022 AGO performance achievements, Friday (12/30/2022).

Settlement of cases with restorative justice is done because it meets the requirements.

However, it is different from the case of Agnes (AG) that the Criminal Handling based on Restorative Justice does not meet the formal and material requirements. Where the victim David experienced abuse which caused the victim to be unconscious for several months and resulted in the victim's condition not being completely recovered as before, and the victim's medical expenses were very large.

This is what disturbs the sense of justice in society, where the victim has been paralyzed and even unconscious for several months, but the DKI High Prosecutor's Office is still offering restorative justice, regardless of the impact of the criminal act.

Law enforcement officials are often shackled by the principle of legality which requires that every criminal case be resolved based on statutory regulations. Law enforcement is confined to the sound of the law, even in the process of seeking justice and granting benefits it must not conflict with legal certainty. Such a process of law enforcement often cannot create the sense of justice desired by the litigants (perpetrators, victims, and society). The reason is, besides there is no law outside Law Number 11 of 2012, the Police and prosecutors seem to be able to decide a case.

While in the Legal guidelines of the High Court of the Republic of Indonesia, this Announcement of the Chief General of the General Court of the High Court directs the use of helpful equity in taking care of instances of minor wrongdoings, ladies in struggle with the law, kids, and opiates in area courts. The use of supportive equity is just inside the extent of minor crook cases, youngsters' cases, ladies' cases in struggle with the law, and opiates cases.

In its turn of events, a few examinations with respect to the viability of discipline contend that detainment isn't the ideal decision since criminal regulation was made to make individuals mindful, devoted, and dutiful so people don't disregard the law a subsequent time. Furthermore, criminal regulation can recuperate misfortunes caused because of the culprit's activities. The law doesn't secure individuals in prison which may not be guaranteed to reestablish what is happening to ordinary.

In this manner, detainment isn't generally the right discipline. Proper regulation is a regulation whose application doesn't cause struggle and doesn't make individuals terrified of the law. Request in the public eye isn't a result of the discipline, but since there are standards and values that the law needs to safeguard.

Detainment doesn't create the normal result, to be specific that assuming somebody has carried out a punishment, he will improve personally. This peculiarity is known as the lawbreaker cycle, to be specific, penitentiaries can't cause convicts to turn out to be productive members of society, at times, they even become more gifted in perpetrating violations. Jail ought to be pointed toward dissuading culprits from activities and as an impediment for somebody to commit precluded acts. Prisonization of detainees is hard to stay away from, particularly on the off chance that oversight by officials isn't done ideally.

To agree on an all the more and fair settlement of criminal cases for casualties and culprits, the procedural and law enforcement framework which focuses on discipline is moved to pondering and intervention strategies.

The notion of restorative justice is based on the idea that the criminal justice system appears to have no deterrent effect on criminal activity. As a result, the prison became overcrowded, which caused many illegal activities to take place there. Not to mention the imbalance between the number of wardens and prisoners. Prisons have the goal of being a place where criminals, also known as prison inmates, can learn about other crimes.

If imprisonment makes a person better when he gets out of prison, then the criminal law is deemed to have run according to its purpose and function. However, if a person who has served a sentence in prison does not improve upon release, then the law will not fulfil its intended purpose and function in society.

Subsequently, the adequacy or outcome of the law enforcement framework not set in stone by taking a gander at the quantity of penitentiaries and prisoners, yet by taking into account how the law enforcement framework can change the character of the guilty party so they become positive and not enemy of social in accordance with Moeljatno's assertion above. At the end of the day, confinement or different kinds of discipline expect to shape the character of the guilty party.

In the event that confinement brings about an individual getting better subsequent to leaving jail, the criminal regulation is considered to have run by its motivation and capability. Nonetheless, the law won't fill in as it ought to in the event that an individual who has carried out a jail punishment doesn't work on himself.

Accordingly, it is unimaginable to expect to decide if the law enforcement framework is working by taking a gander at the quantity of detainment facilities and detainees, yet rather by thinking about how the law enforcement framework can change the culprit's character so it is positive and positive. not enemy of social, in accordance with Moeljatno's assertion above. All in all, detainment or different sorts of discipline are ways of changing the character of the wrongdoer. It is trusted that an individual who emerges from jail won't rehash his shrewd deeds and can be good for the country and the state, in this way the jail is likewise called a Prison.

Also, discipline makes individuals not do things that are disallowed by regulation or in spite of the ethics of society. Detainment as one of the fundamental wrongdoings directed in Article 10 of the Lawbreaker Code is as yet vital in rebuffing hoodlums in Indonesia. The threat of imprisonment, which is imperative in Indonesia, is a legacy of the classical school of thought, which determines punishment with a definite sentence or contains a written order in law. Criminal law within the framework of the classical school is called *daadstrafrecht* or *tatsstrafrecht* namely "Prison Effectiveness in Resolving Social Problems".

Diversion is another type of case resolution used in ongoing juvenile justice outside the courtroom. such as arranging mediation sessions between crime victims and perpetrators. It is common knowledge in juvenile justice that perpetrators can face criminal sanctions and penalties. The two sanctions fall into different categories. actions such as handing over a child to a Correctional Center (Bapas) are examples of sanctions.

Meanwhile, a fine is a type of criminal sanction. Imprisonment time and other forms of corporal punishment were rarely used. The court gave top priority to the child's education. The court decided not to use corporal punishment when the Protection Act was passed. Usually, only fines lead to education.

Restorative justice is practiced before meeting law enforcement officials. One of the types of communication between rebels and opponents. Law enforcement officials can act as a mediator to help the parties reach a resolution to resolve the conflict.

7. Conclusion

In completing Supportive Equity, the Police, Examiner's Office, and the High Court of the Republic of Indonesia should have an unmistakable and not dim view of the importance and execution of Helpful Equity through similar principles for all regulation masters, so as not to injure the rights of either party from the disputing community, so that not all Law Enforcers each carry their understanding, and authority, power and rights of their respective Law Enforcers so that it means that all light cases can be brought to the realm of Restorative Justice.

The product of restorative justice at the police investigation level is the Investigation Termination Order (SP3). Meanwhile, at the level of prosecution or the Prosecutor's Office, namely the Decree on Termination of Prosecution (SKPP), the authority of the two law enforcement agencies to carry out restorative justice is very worthy of thought, because apart from there is no law other than Law Number 11 of 2012, the Police and prosecutors seem to have can decide a case, for that it is very necessary to make the same rules in the three law enforcers.

Then it is also important, clear understanding and education for law enforcement officials to know the limits of formal and material requirements and the mechanism for carrying out Restorative Justice without injuring the rights of either party.

Helpful equity endeavors completed at the degree of examination and arraignment show that one of the endeavors to determine criminal cases as most would consider to be normal to diminish the gathering of cases at the court level is the settlement of criminal cases in light of supportive equity. Settlement of cases through supportive equity is viewed as more fit for accomplishing considerable equity as wanted by the gatherings (culprits, casualties, and society), which for this situation zeros in additional on the interests of the person in question. This is on the grounds that the settlement cycle is quicker than through prosecution. The motivation behind supportive equity is to return the gatherings to the state they were before the wrongdoing happened, yet in addition not to harm the privileges of the Indonesian nation from one of the gatherings to get equity, lawful assurance, and legitimate security.

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