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The Existence of Restorative Justice Houses in Resolving Criminal Cases in Aceh Province

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Abstract

The application of Restorative Justice (hereinafter referred to as RJ) in resolving minor criminal cases is guided by the Attorney General's Regulation No.15 of 2020 concerning Termination of Prosecution based on RJ, that the process of resolving cases outside of court is in the form of discontinuing prosecution by the Prosecutor's Office but in its implementation, the implementation of innovations in house building policies RJ at the village level in Aceh Province has not been implemented effectively. This is to realize legal certainty by prioritizing justice, both for suspects as perpetrators of criminal acts, victims, their families and the community. Apart from that, what is more

important is achieving the resolution of criminal cases simply, quickly and at a low cost. Therefore, resolving criminal cases using RJ must not create a negative stigma, both for the suspect, the victim and the community. This research and study aims to find out, analyze and explain the resolution of criminal cases through the implementation of the House of RJ in Aceh Province, the mechanism for resolving criminal cases through the implementation of the House of RJ, and the efforts of the Prosecutor's Office in implementing the House of RJ effectively in resolving criminal cases in Aceh Province.

Keywords: Existence, Resolving Criminal Cases, House of Restorative Justice

Introduction

The orientation regarding punishment in Indonesia has changed very fundamentally through the implementation of RJ, and this has been included in the 2020-2024 Medium Term Development Plan (RPJMN).¹ As an implementation of the RPJMN, law enforcement institutions in their development have begun to take the initiative to develop their own regulations internally to be able to implement RJ in their respective environments. The Prosecutor's Office, for example, has issued Prosecutor's Regulation No. 15 of 2020. Meanwhile, the Police have also issued Police Regulation no. 8 of 2021 concerning Handling of Criminal Acts Based on RJ. In these two regulations, the application of RJ mechanisms is interpreted as a process of resolving cases outside of court in the form of terminating investigations and/or inquiries by the Police and terminating prosecutions by the Prosecutor's Office.²

When discussing similarities, it is important to acknowledge that the police and the prosecutor's office, although both utilizing a RJ approach in handling criminal cases, have distinct differences. Each institution operates according to its own set of fundamental principles for implementing RJ. While their ultimate goal is the same - achieving RJ - variations arise due to the authorities vested in each institution. The police possess authority in conducting inquiries and investigations, whereas the Prosecutor's Office holds jurisdiction over prosecution. This disparity in authority forms the foundation for the divergences between the two institutions within the RJ framework.³

¹ Kejaksaan Republik Indonesia, 2023, *Diskresi Penuntutan di Indonesia dan Perbandingan dengan Negara-Negara Eropa*, The Prosecutor Law Review, Volume 2, Nomor 2, hal. 93

² *Ibid*, hal 93

³ Agustinus Gabriel Rante Ubleeuw, 2022, *Komparasi Pendekatan Restoratif Justice dalam Penanganan Perkara Pidana Antara Kepolisian dan Kejaksaan*, *Jurnal Hukum dan Pembangunan Ekonomi*, Volume 10, Nomor 2, hal. 302

Notably, the disparities in authority between the police and the prosecutor's office encompass several essential legal aspects or frameworks that are applicable to both institutions, is Police Regulation No.8 of 2021 and Prosecutor's Regulation No.15 of 2020, these two legal bases have the same position in the statutory hierarchy, however the implementation carried out by both institutions, both the police and the Prosecutor's Office, has their respective authorities, The police agency possesses the power to halt investigations and inquiries using a RJ approach, while the prosecutor's office holds the authority to cease prosecutions in order to prioritize RJ.⁴

The long-awaited establishment of a legal framework for resolving cases outside of the court system was finally achieved through the enactment of Law No. 11 of 2021, which amends Law No. 16 of 2004. This amendment grants the Prosecutor's Office the competence to engage in penal mediation, as stipulated in Article 30 C.⁵ The general explanation of Law No.11 of 2021 clarifies that penal mediation entails resolving cases outside of the courtroom as a manifestation of RJ, which seeks to strike a balance between ensuring legal certainty and promoting the usefulness and application of the Prosecutor's Authority. This approach is implemented by considering local customs and the principles of justice that prevail within society.⁶

If studied from a juridical, philosophical and sociological perspective, existence contains the principle of implementing a "win-win" solution and not the other way around which ends in a "lose-lose" or "win-lose" situation as the judiciary wants to achieve by achieving formal justice through the litigative legal process through a penal mediation process. In this way, the highest peak of justice is achieved by obtaining an agreement between the parties involved in the criminal case, namely between the victim and the perpetrator together or with their family.⁷

To uphold the community's concept of justice,⁸ the termination of prosecution through RJ aims to strike a balance between certainty and efficiency in the exercise of prosecutorial authority guided by both legal principles and personal conscience. In order to adapt to evolving legal dynamics and meet the specific legal needs of the community, the Attorney General has implemented Prosecutors Regulation No. 15 of 2020, which focuses on RJ. This regulation has been well-received by the community and effectively put into practice. To ensure the successful implementation of these regulations, leadership policies have been put in place to complement and enhance them, with ongoing evaluations to drive continuous improvement. This optimization process is crucial to ensure that the termination of prosecution based on RJ aligns with the overarching goals of justice, certainty, and efficiency, all of which are carefully considered by the Public Prosecutor with utmost responsibility. Basically, legal regulations that bring benefit or usefulness to the law are to create order and tranquility in people's lives, because of the existence of

orderly laws.⁹ The purpose of law is as a tool to build society.¹⁰

The position of the prosecutor in using his authority to terminate a prosecution based on RJ, is a reflection of the principle of prosecutorial dominus litis and this is prosecutorial discretion. In this way, its juridical impact has penetrated the formal legal system as contained in the Criminal Code (KUHP). Even though this deviates from the KUHP, it has a positive impact on the implementation of the principles of simple, fast and low-cost justice. In this case it can also be said that termination of prosecution based on RJ has binding legal force, because this includes the freedom of discretion of the prosecutor and/or public prosecutor and other legal measures cannot be taken to achieve justice and legal certainty.¹¹

The termination of a criminal case based on RJ can be accomplished by fulfilling three main requirements, which are cumulatively applicable and are set out in Article 5 (1) of the Prosecutors Office Regulation No.15 of 2020 Based on RJ, namely:

1. The crime committed by a new suspect is the first time, not a repetition or having committed a previous crime (recidivism).
2. Criminal acts committed by the suspect are only criminal acts that are punishable by a fine or imprisonment of not more than 5 (five) years in prison.
3. The loss suffered by the victim or the value of evidence from the criminal act committed by the suspect is not more than Rp. 2,500,000.

Article 5 (3) of the Public Prosecution Regulation No. 15 of 2020 according to RJ, for crimes that infringe upon the person, body, life and freedom, only a fine or imprisonment of not more than five (five) years may be imposed if the suspect commits the crime for the first time and for the crime. Article 5 (4), provides that for negligent crimes, if the suspect is committing the crime for the first time, the prosecution can be terminated according to RJ.

In the reality of case handling, there are cases that legally meet the elements of a suspected criminal act, but in conscience the case may not be worthy of prosecution, but because of a necessity ordered by law the case must be prosecuted in court, this is even though it is based on positive law is true, but in human terms it has injured the sense of justice in society, thereby causing the objectives of the law to not be fulfilled.¹²

In terms of compensation, the Attorney General is authorized by law to deploy law enforcement officers in Aceh. Attorney General: Letter No. B-475/E/Es.2/02/2022 issued by the Attorney General on February 8 2022 explains that based on the results of monitoring the implementation of the case resolution plan, the public gave a positive response. against compensation, and more and more people are calling for an end to prosecutions on the basis of compensation to resolve

⁴Ibid, hal. 102

⁵ Ibid, hal 95

⁶ Kejaksaan Republik Indonesia, *Log. Cit*, hal 95.

⁷ Ainal Mardhiah, Mohd. Din, Riza Nizarli, *Mediasi Penal Sebagai Alternatif Model Keadilan Restoratif Dalam Pengadilan Anak*, Jurnal Ilmu Hukum, Volume 1, Nomor 1, 2012, hal. 6

⁸ Webby Aditya, Dahlan Ali, Suhaimi, *Pencegahan Jarimah Khalwat di Kota Sabang*, *Media Syari'ah*, Vol. 21, No. 2, 2019, pp. 188-200.

⁹ Satjipto Rahardjo, *Ilmu Hukum*, Bandung, PT. Citra Aditya, 1991, hal. 13

¹⁰ Muchsin, *Ikhtisar Ilmu Hukum*, Jakarta, Badan Penerbit Iblam, 2006, hal. 11

¹¹ ASMADI SYAM, "IMPLIKASI YURIDIS PENGHENTIAN PENUNTUTAN BERDASARKAN KEADILAN RESTORATIF DALAM PERSPEKTIF SISTEM PERADILAN PIDANA", TESIS, UNSYIAH, 2022, HAL. I

¹² Ibid.

cases. Responding to the positive response from the public, the Attorney General issued a directive to establish compensation houses throughout Indonesia, instructing the heads of the Prosecutor's Office to encourage the heads of the District Attorney's Office and the heads of the State Prosecutor's Office to return to compensation houses in their respective jurisdictions. In establishing the House of RJ, the District Prosecutor's Office/State Prosecutor's Branch should coordinate with the local government and outline the formation of the House of RJ in the form of Village Regulations in each region.

House of RJ is a forum for the implementation of RJ which was first inaugurated on March 16 2022 based on the direction of the Attorney General at the Launching of House of RJ as explained in Attorney General's Letter No. B-913/E/Ejp/03/2022. Marlina states in her book that the concept of RJ is a process of resolving legal violations that occur by bringing the victim and perpetrator (suspect) together to sit in one meeting to can talk.¹³ To apply the concept of RJ properly in a country's social structure, it must be built in accordance with the cultural roots of that society, because one of the parties implementing it is the society itself.¹⁴

Handling criminal cases with a RJ approach provides a different perspective and method for understanding and handling crimes.¹⁵ Criminal crimes refer to acts that are prohibited by law and subject to criminal punishment, which refers to acts other than active acts (acts that are actually prohibited by the law) and passive acts (things that the law does not actually do).¹⁶ Deliberation must be prioritized if problems arise. We must use the principle of priority, the first priority always falls on justice, then expediency and finally legal certainty.¹⁷

In the current development of resolving criminal cases in Aceh, the condition of several RJ houses is starting to become less active in Aceh Province based on data obtained from the Aceh High Prosecutor's Office in 2024. Implementation of policy innovations for establishing RJ houses at the village level in the Province Aceh has not been implemented effectively in accordance with the policy that has been established by the Attorney General to establish RJ Houses throughout Indonesia whose implementation mechanism for handling minor cases handled by RJ Houses is guided by RJ and implementation instructions that have been issued by the Prosecutor. Agung Muda General Crimes in Attorney General's Letter No. B-475/E/Es.2/2022 concerning the Establishment of a RJ House.

¹³Marlina, *Peradilan Pidana Anak di Indonesia, Pengembangan Konsep Diversi dan RJ, Cet I*, Bandung, Refika Aditama, 2009, hal. 180.

¹⁴Ainal Mardhiah, Mohd. Din, Riza Nizarli, *Mediasi Penal Sebagai Alternatif Model Keadilan Restoratif Dalam Pengadilan Anak*, Jurnal Ilmu Hukum, Volume 1, Nomor 1, 2012, hal. 5

¹⁵Eva Achjani Zulfa, *Keadilan Restoratif*, Jakarta, Badan Penerbit FH UI, 2009, hal. 1.

¹⁶Teguh Prasetyo, *Hukum Pidana*, Jakarta, Rajawali Pres, 2016, hal. 50

¹⁷Achmad Ali, *Menguak Tabir Hukum*, Jakarta, Chandra Pratama, 1996, hal. 95

Table 1: Recapitulation of the Existence of RJ Houses in Aceh Province in 2024

S. No	Prosecutor's Office/State Prosecutor's Branch	Amount RJ House	No.	Prosecutor's Office/State Prosecutor's Branch	Amount RJ House
1	Banda Aceh District Prosecutor's Office	1	14	Simeulu District Prosecutor's Office	-
2	Sabang District Prosecutor's Office	1	15	Aceh Jaya District Prosecutor's Office	1
3	Pidie District Prosecutor's Office	3	16	Aceh Singkil District Prosecutor's Office	116
4	Lhokseumawe District Prosecutor's Office	68	17	Gayo Lues District Prosecutor's Office	1
5	Langsa District Prosecutor's Office	5	18	Aceh Besar District Prosecutor's Office	8
6	Aceh Tengah District Prosecutor's Office	1	19	Aceh Barat District Prosecutor's Office	1
7	Aceh Barat District Prosecutor's Office	1	20	Nagan Raya District Prosecutor's Office	1
8	Aceh Selatan District Prosecutor's Office	1	21	Bener Meriah District Prosecutor's Office	1
9	Aceh Tenggara District Prosecutor's Office	1	22	Subulussalam District Prosecutor's Office	2
10	Bireuen District Prosecutor's Office	2	23	Pidie Jaya District Prosecutor's Office	3
11	Aceh Utara District Prosecutor's Office	7	24	Pidie District Prosecutor's Office Branch in Kota Bakti	1
12	Aceh Timur District Prosecutor's Office	24	25	South Aceh District Prosecutor's Office Branch in Bakongan	-
13	Aceh Tamiang District Prosecutor's Office	4			
	Jumlah	254 (<i>Dua Ratus Lima Puluh Empat</i>) Rumah RJ			

Data Source: Aceh Province High Prosecutor's Office

Based on the table above, the Recapitulation of the Existence of RJ Houses in Aceh Province amounts to 254 (Two Hundred and Fifty Four) RJ Houses. Aceh Singkil Regency has the highest number of RJ Houses in Aceh Province, due to the signing of a Joint Agreement (MoU) between the Aceh Singkil District Prosecutor's Office and the Aceh Singkil Traditional Council regarding Coordination and Cooperation in the field of Handling Legal Problems/RJ, Legal Development and Counseling. This is based on the Decree of the Head of the Aceh Singkil District Prosecutor's Office No.KEP-40/L.1.25/Es.2/09/2022. With the designation of 116 villages in the Aceh Singkil Regency area as RJ Houses within the jurisdiction of the Aceh Singkil District Prosecutors Office, the process of resolving cases between community members can be carried out by involving all elements of society regarding problems in their environment with the aim of producing decisions that are accepted by all relevant parties.

The implementation of RJ prioritizes local wisdom by involving all figures in the village. The Keuchik can play an active role in communicating with the prosecutor's office in resolving light category cases in his village. The socialization of the Village Qanun regarding Settlement of Cases through RJ and the signing of a joint agreement

between the Aceh Singkil District Prosecutor's Office and the Aceh Traditional Council, regarding coordination and cooperation in the field of handling legal problems/RJ guidance and legal counseling adds to the strengthening of RJ in Aceh Singkil. The completion of case handling quickly and at low cost, as well as the realization of legal certainty that prioritizes justice that touches the community, by avoiding negative stigma. All cases included in RJ in 18 minor criminal cases or (Tipiring) can be resolved at the village level with the customs that apply in the village which aims to produce decisions that are accepted by all related parties by returning to their original conditions in harmony. Lhokseumawe Municipality has won the best Prosecutor's category for the number of RJ houses in the previous few years, namely after the establishment of the RJ House based on the Attorney Generals Letter, this is a concrete manifestation in the design and formulation of each Prosecutor's work program which must follow the planning and budgeting cycle.

The existence of many RJ Houses is an achievement and achievement of the local Prosecutor's Office, however, for areas where the existence of RJ Houses is still low, such as the West Aceh District Prosecutors Office and the Aceh Besar District Prosecutors Office, which still lack RJ Houses, it is hoped that they can continue to improve services to the community and homes. The existing RJ must be used or functioned well.

The difference in the number of RJ Houses in each region which is not balanced with the needs of the community requires special attention from the government, especially the South Aceh District Prosecutor's Branch in Bakongan because there is still no RJ House in existence. The Attorney General's Office has issued Letter Number B-913/E/Ejp/03/2022 regarding the Establishment of a RJ House to be followed up by the District Prosecutors Office/District Attorney Branch.

The House of RJ has been established but its implementation is still less active, this is certainly an interesting thing to research, RJ is being pursued so that handling criminal cases becomes easier and more efficient, of course it will provide positive things for law enforcement in Aceh Province. RJ itself aims to minimize criminals in Aceh Province.

Based on several problems related to the Implementation of RJ Houses in Aceh Province as described previously, it is important to carry out research on "The Existence of RJ Houses in Resolving Criminal Cases in Aceh Province".

Research Methods

This research uses empirical research. According to Ronny Hanitjo Soemitro, this type of empirical legal research is legal research that obtains its data from primary data or data obtained directly from the public.¹⁸ The empirical approach involves the collection, analysis, and interpretation of empirical data obtained from field research or experiments. This research was conducted to gain a more comprehensive understanding of the legal phenomenon being studied.

This research was carried out in Aceh Province as the legal enforcement jurisdiction of Aceh Province. The reason for choosing this research location is that Aceh Province is one of the provinces where crime has increased. The population

of this research is Law Enforcement Agencies and Villages. Considering the large population, a research sample was determined. The research sample was determined using purposive sampling, namely selecting respondents who were directly related to the problem being studied, to obtain accurate data and information that was expected to represent the entire population. Respondents are the main data source in a study and are able to provide information.

The respondents in this research are as follows:

- a. Assistant for General Crimes at the Aceh High Prosecutors Office, 1 (one) person.
- b. Head of the General Crimes Section of the Aceh Singkil District Prosecutors Office, Lhokseumawe, West Aceh, Aceh Besar and Head of the South Aceh District Prosecutor's Branch in Bakongan, 1 (one) person each.
- c. Gampong officials from Aceh Singkil Regency, Lhokseumawe Municipality, West Aceh Regency, Aceh Besar and South Aceh Regency in Bakongan, each with 1 (one) person.

Considerations for Selection of Respondents Assistant for General Crimes at the Aceh High Prosecutors Office in order to obtain data and explanations regarding the existence of RJ Houses throughout Aceh, then the selection of Respondents as Heads of the General Crimes Section of the Lhokseumawe District Prosecutor's Office and the Aceh Singkil, because these two areas are among the Regions that have Houses RJ is very much about looking at the strategies implemented by the two Prosecutors' Offices, and comparing them by looking at the constraints and obstacles faced by the Aceh Besar Regency District Prosecutor's Office and the West Aceh which still lack a RJ House and the South Aceh District Prosecutor's Office in Bakongan.

The data collected is primary data and secondary data.¹⁹ Primary Data is collecting data in the field through direct interviews, asking directly to parties who are considered to know and understand the issue being researched. Secondary data is data from research on library materials. Secondary data collection was obtained by means of literature study, in this case carried out by collecting and researching statutory regulations and reading sources related to the problem being studied. The data obtained is used as a basis for theoretical thinking.

So that secondary data processing as mentioned above in the research specifications can become a systematic integrated scientific work using qualitative data analysis techniques and then presenting descriptive analysis, namely by describing, explaining and describing according to the problem. The use of qualitative analysis techniques includes all data that has been collected and then processed to form descriptions and narratives that support this study. Data analysis is carried out qualitatively which will answer and solve in depth, comprehensively and completely the object being studied and analyzed.

Result and Discussion

1. Overview of the Implementation of RJ Houses in Resolving Criminal Cases in Aceh Province

In reality, the use of criminal sanctions for minor crimes does not show any deterrent power against individual perpetrators, but on the contrary, the crime trend is actually

¹⁸ Ronny Hanitjo Soemitro, *Dualisme Penelitian Hukum Normatif & Empiris*, Yogyakarta, Pustaka Pelajar, 2010, hal 154.

¹⁹ Bambang Waluyo, *Metode Penelitian Hukum*, Sinar Grafika, Jakarta, 2002, hal. 77

increasing with various forms of crime. Enforcing the rule of law does not have to involve enforcing criminal law which aims to punish, but implementing the law should be more directed at recovery. One of the appropriate concepts for overcoming various minor criminal law enforcement problems described in the previous chapter is the RJ approach. One of the ideas of using the concept of RJ in resolving minor crimes is to avoid the accumulation of more and more cases and providing less justice for victims of society. Settlement of criminal acts is seen as not in favor of justice for victims of society. On this basis, the idea of RJ emerged as a reaction to the handling of cases in court which was seen as unfair. Even though the concept of RJ is seen as a model of law enforcement that provides hope of creating justice, empirically law enforcers still have difficulty implementing it in concrete cases of minor crimes, because if the perpetrator has been named a suspect based on sufficient evidence then the investigator and public prosecutor must be held accountable for the resolution. If the case reaches court, otherwise it is considered an outstanding case, while the imposition of criminal sanctions does not provide substantive justice against the perpetrator. Based on interview with Mr. Ifham Taufiq Lubis, in the jurisdiction of Aceh Singkil Regency, 116 RJ Houses have been established in 116 villages, meaning that every village in Aceh Singkil Regency has a RJ House located in the Village Head's Office.²⁰ That the position of the House of RJ in the Aceh Singkil Regency area is as a means and facility that every village has to resolve a problem using a customary approach and consensus deliberation while remaining within the framework of law enforcement, but with a law enforcement approach that restores/seeks to restore the original situation before the occurrence of criminal acts/problems.²¹ The RJ House which has been established in its implementation is not only guided by Prosecutor's Regulation No. 15 of 2020 Based on RJ but also by Aceh Qanun No. 9 of 2008 which in Article 13 states that there are 18 cases that can be resolved amicably, custom which uses a RJ approach.

Based on the results of the interview with Mr. Darma Mustika, it was stated that in the jurisdiction of West Aceh, 1 RJ House has been established, named the Geunaseh Hate peace house, which is located at the Keuchik Drien Rampak Office, Johan Pahlawan District, West Aceh Regency, which was inaugurated on Wednesday 08 July 2022.²² Mr. Darma explained that the purpose of this RJ House is besides being used as a place for carrying out the RJ process as regulated in Prosecutor's Regulation No. 15 of 2020 Based on RJ, it is also used to gather local communities for meetings to socialize other important activities such as the dangers of narcotics, widespread in the jurisdiction of West Aceh. That the people of Aceh themselves are already familiar with this RJ approach, because Aceh has its own customary legal basis, namely Aceh Qanun No.9 of 2008, which in Article 13 states that there are 18 cases that can be resolved according to custom, so with The existence of this Restorative House is also used as a place to resolve problems since the case has not yet been brought to justice,

so it is resolved first at the gampong/village level. Here, the role of the Prosecutor's Office, through the Prosecutor, is to be present in the community if there is a problem that has not been reported by the police for investigation or investigation at the Police Level. In this case, Gampong/village officials can invite the Prosecutor to the RJ House to hear how the problem is going, here the Prosecutor can provide arguments regarding the problem in the form of input, suggestions by means of deliberation to reach a consensus with other gampong officials.²³

Based on the results of an interview with Mr. Said Midi, he said that at the time of the establishment of the House of RJ which was located at the Keuchik Drien Rampak office, Johan Pahlawan District, West Aceh Regency, he had not yet served as Keuchik Drien Rampak, he only served as Keuchik at the end of 2022, that as long as I served as Keuchik Drien Rampak can be used to solve existing problems in the village. Many of the solutions to problems at home with RJ are usually just problems in the household, theft, abuse.²⁴

Hamidi as Keuchik Lampeuneurut said that he was very happy with the establishment of a RJ house in the village so that it would make it easier to resolve the problems that occurred, without necessarily requiring punishment in the form of imprisonment.²⁵ That since taking office as Keuchik of Lampeuneurut Gampong at the end of 2023, there have been 4 cases resolved at the RJ House using the RJ approach, including khalwat, land disputes, disagreements within the household, and abuse.²⁶

Rusydi Sastrawan said that in the jurisdiction of the city of Lhoksemawe, 68 RJ Houses had been established, consisting of:²⁷

1. Banda Sakti District, consisting of 18 Gampongs;
2. Muara Satu District, consisting of 11 Gampongs;
3. Muara Dua District, consisting of 17 Gampongs;
4. Blang Mangat District, consisting of 22 Gampongs.

Located in each Gampong, Prosecutor's Regulation No.15 of 2020 as a form of prosecutorial discretion, it is hoped that the Prosecutor can use this to see and balance the applicable regulations with the principle of benefit to be achieved.

This award is an award from the State for villages that are deemed to meet the requirements and have a community that is aware of the law and supports all community empowerment programs from a legal perspective or aspect. Because when the people are aware of the law, all village development activities will run smoothly." Every gampong has been given by Allah SWT to have various potentials that can be developed for progress and prosperity. It only remains for the village officials to take the initiative to implement them.

²³ *Ibid.*

²⁴ Said Midi, Keuchik Desa Drien Rampak Kabupaten Aceh Barat, *Wawancara*, tanggal 02 Agustus 2024.

²⁵ Hamidi, Geuchik Desa Lampeuneurut Kabupaten Aceh Besar, *Wawancara*, tanggal 02 Agustus 2024.

²⁶ Hamidi, Geuchik Desa Lampeuneurut Kabupaten Aceh Besar, *Wawancara*, tanggal 02 Agustus 2024.

²⁷ Rusydi Sastrawan selaku Kepala Seksi Tindak Pidana Umum Kejari Kota Lhokseumawe *Wawancara*, tanggal 02 Agustus 2024

²⁰ Ifham Taufiq Lubis, Kepala Seksi Tindak Pidana Umum Kejari Aceh Singkil, *Wawancara*, tanggal 02 Agustus 2024.

²¹ *Ibid.*

²² Darma Mustika, Kepala Seksi Tindak Pidana Umum Kejari Aceh Barat, *Wawancara*, tanggal 02 Agustus 2024.

2. RJ Home Mechanism in Resolving Criminal Cases in Aceh Province

The court mechanism has so far been seen as not providing satisfaction with the hopes of justice expected by the affected communities. The RJ House mechanism creates new alternatives for responding to minor crimes by placing more decision-making authority but still taking into account the input, considerations and interests of the parties. The concept of deliberation can be a means of bringing together the interests of perpetrators, victims, traditional stakeholders and the Prosecutor's Office. Consensus deliberation forums (restorative meetings) seek solutions to problems caused by the perpetrator's actions. By implementing this model, the efficiency of light criminal law enforcement can be carried out and it does not take a long time and drag on. However, to avoid sharp differences of opinion in this model and minimize failure in reaching an agreement, it is necessary to involve local traditional stakeholders and the prosecutor's office.

The mechanism/stages for implementing the resolution of criminal cases carried out at the RJ house in Aceh Singkil Regency based on the results of an interview with Mr. Ifham Taufiq Lubis said that the Village Head/Community Leader brought together the two parties in the dispute by involving family, local religious leaders, and also community members who able to provide solution options. If there is common ground, problems can be resolved either with agreed terms or without any conditions. Furthermore, the parties agreed not to proceed with the conventional law enforcement process (investigation - prosecution - examination in court). However, if there is no resolution, the victim will continue by reporting to the Police for an Investigation (Investigation Case File). Furthermore, if the Investigation Case Files have been examined and declared complete by the Public Prosecutor then Stage II will be carried out (Handover of the Suspect and Evidence from the Investigator to the Public Prosecutor), the Public Prosecutor will seek to discontinue the Prosecution based on the terms and conditions as well as the mechanism regulated in Prosecutor's Regulation No. 15 of 2020.²⁸

According to the results of an interview with Mr. Darma Mustika, he said that the mechanism used in resolving criminal cases at the RJ House is different from the mechanism in Prosecutors Regulation No. 15 of 2020 Based on RJ. This is because the resolution of criminal cases at the RJ House has not yet entered the realm of law (Pro Justitia). Where when there is a problem the Keuchik and gampong apparatus gather religious leaders, traditional leaders, prosecutors, perpetrators and victims. Next, the aspirations of each figure are listened to and immediately looked for the best solution through the consensus deliberation process to resolve the problem. If a solution is found then the problem is resolved there. Meanwhile, if there is no common ground on the issue, the matter will be continued to the Police and will go through the appropriate legal process. Meanwhile, the mechanisms/stages for implementing RJ are contained in Prosecutor's Regulation No. 15 of 2020, namely:²⁹

1. There is a police report, through investigations and investigations from the police until it is in the form of a

case file and declared complete (P21) by the Public Prosecutor.

2. The Prosecutor offers peace efforts to the Victim and Suspect. This is done when handing over responsibility for the suspect and evidence. Efforts to reconcile the victim and suspect were carried out without any coercion, pressure or intimidation
3. If the victim and suspect agree to make peace, then a peace process will be carried out attended by the suspect, the victim and accompanied by the families of both parties, community figures or representatives, and other related parties until a letter of Decree on Termination of Prosecution against the suspect is issued.

Based on the results of the interview with Mr. Said Midi, he said that the people of Gampong Drien Rampak had taken advantage of the establishment of the RJ House, but so far there had been no involvement of the Prosecutor or the Police. Only involving perpetrators, victims, families of both parties and village officials. The step is that if there is a problem, they will be gathered at the RJ House, then the problems that have occurred will be explained towards peace. If peace is achieved, a peace report will be prepared. However, if peace is not achieved then it will be processed legally.³⁰

Hamidi said that for the stages themselves, such as the khalwat problem that had occurred, when local residents found a couple who were not husband and wife, then the next step was to notify the gampong officials and then the gampong officials invited the families of both parties. The Gampong Apparatus was also attended by the village supervisory officer (Babinsa), Bhayangkara, the Trustee of Security and Public Order (Bhabinkamtibmas), and the Prosecutor from the Aceh Besar District Prosecutor's Office as the pioneer of the formation of the House of RJ, after everyone gathered, the next process was consensus deliberation for peace and here the Prosecutor was present to mediate between both parties. If peace is achieved, the gampong then prepares a Minutes of Peace for both parties so that similar incidents and actions do not happen again and is signed by the interested parties. and the problem is resolved.³¹ That the implementation of RJ activities by the prosecutor's office is in accordance with Prosecutor's Regulation no. 15 of 2020 is also carried out at the RJ House, where after the suspect and evidence are handed over, the RJ House is usually used to carry out gampong activities such as the formation of Gampong Reusam, because with the Decree on the establishment of this RJ House, Gampong officials can directly explained that this was a program from the prosecutor's office that was given to the Lampeuneurut Gampong Community to make the best use of it, one of which was resolving cases by deliberation and consensus and was strengthened by the existence of Qanun No. 9 of 2008 that there were 18 cases that could be resolved at the level village, a peaceful resolution must be reached at the gampong level first and then if this is not

²⁸ *Ibid.*

²⁹ Darma Mustika, Kepala Seksi Tindak Pidana Umum Kejari Aceh Barat, *Wawancara*, tanggal 02 Agustus 2024.

³⁰ Said Midi, Geuchik Desa Drien Rampak Kecamatan Aceh Barat, *wawancara* tanggal 2 Agustus 2024.

³¹ Hamidi, Geuchik Lampeuneurut Kabupaten Aceh Besar, *Wawancara* tanggal 04 Agustus 2024

achieved, it will be taken to legal action.³² The House of RJ functions as a forum for absorbing local wisdom values, as well as reviving the role of community leaders, religious leaders and traditional leaders to work together with prosecutors in the process of resolving cases that is oriented towards the realization of substantive justice.

Based on interviews with Mr. Ifham, he said that there are obstacles or challenges to the RJ house that has or has not been established, namely:³³

1. There has been a shift in society's mindset which tends to want to resolve problems through the courts/criminal justice system whose output is that the perpetrator is sentenced to prison.
2. The erosion of customs/culture of resolving problems through deliberation and consensus.
3. Community figures who are less able to provide peace options/problem resolution that are acceptable to all parties.
4. The entry of interested parties makes it difficult to resolve problems using RJ.

Based on interviews with Mr. Darma, he said that at the West Aceh District Prosecutor's Office until the middle of 2024, there had not been any cases carried out by RJ, where there was a challenge, namely that the RJ House was based on the agreement of both parties. Where RJ returned the problem, as before (peaceful). This is the challenge experienced by the West Aceh District Prosecutor's Office, how to ensure that the parties involved in the case can be mediated by the Prosecutor and the victim. Because the Public Prosecutor at the West Aceh District Prosecutor's Office has tried to mediate several times but was unsuccessful. This is because the request from the victim is unreasonable, for example there is a case of abuse where the injuries are not too serious, but the request for damages is too high so that the perpetrator/suspect is unable to fulfill it so that peace cannot be achieved.³⁴

The obstacle that has occurred so far is that there are parties who do not want to make peace. However, the Gampong side still seeks peace first, and if peace is not achieved then it will be handed over to the authorities (police). What is clear is that we as Gampong officials will continue to strive for peace first.³⁵

Based on the research results based on the statement above, it can be concluded that the RJ House is not only used for implementing the RJ House as explained in Prosecutors Regulation No. 15 of 2020, but this RJ House can be used by the community to resolve problems peacefully since The initial problem arose by involving the prosecutor in resolving it. That the agreement that occurred in the restorative meeting gave rise to legal consequences in the form of terminating the investigation which had been completed using the restorative meeting model. Termination of the investigation is based on the investigator's authority to take other legal action according to the law that is

responsible. This action to stop the investigation must be balanced with the payment of compensation and/or minor criminal action.

The approach mechanism that can be carried out by Gampong officials is an approach to everyone, including opposing groups, such as exchanging ideas and then building communication.

3. Efforts from the Prosecutor's Office to Implement RJ Houses Effectively in Resolving Criminal Cases in Aceh Province

The existence of RJ is currently implemented through the discretion of law enforcers. RJ efforts that can be applied in law enforcement. Criminal law to overcome minor criminal acts requires the participation of individual perpetrators, victims, the Prosecutor's Office, Gampong Traditional Leaders voluntarily to seek a peace agreement. The success of resolving minor crimes outside of court is to reach an agreement regarding the form and amount of compensation, restoration of certain actions and preventive measures to prevent the recurrence of criminal act. The spirit of RJ is because it provides space for the community and perpetrators to resolve disputes voluntarily without going to court.

Based on interviews with Mr. Ifham, he said that the efforts made so that this RJ House can be implemented effectively and can be used by the community for other positive activities are as follows:³⁶

1. Monitor and evaluate the implementation/utilization of the RJ House on an ongoing basis
2. Continue to coordinate with the Village Head / Community Leader / Local Religious Leader so that cases that can be resolved through RJ can be carried out properly
3. Always open space for the Village Head/Community Figure as a facilitator to consult with Prosecutors to resolve problems wisely and wisely.

Based on interviews with Mr. Darma, he said that this RJ House is not only intended as a place for carrying out RJ for the Prosecutors Office in Prosecutors Regulation No. 15 of 2020, but can also be used or exploited by the community for other activities such as forming a discussion forum or place to vent. Community to Law Enforcement Officials. That if the establishment of a RJ House is only focused on implementing RJ activities then the place will be less efficient or less effective.³⁷

Mr. Said Midi said that it was necessary to socialize the community to resolve problems by deliberation and consensus to ensure cases go to court.³⁸ Hamidi said that the efforts made by Lampeuneurt Gampong officials were,³⁹

1. Gather residents and socialize to the Lampeuneurt Gampong Community that there are 18 cases that must be resolved by the village/gampong through RJ

³² Hamidi, Geuchik Lampeuneurt Kabupaten Aceh Besar, Wawancara tanggal 04 Agustus 2024

³³ Ifham Taufiq Lubis, Kepala Seksi Tindak Pidana Umum Kejari Aceh Singkil, Wawancara, tanggal 02 Agustus 2024.

³⁴ Darma Mustika, Kepala Seksi Tindak Pidana Umum Kejari Aceh Barat, Wawancara, tanggal 02 Agustus 2024.

³⁵ Hamidi, Geuchik Lampeuneurt Kabupaten Aceh Besar, Wawancara tanggal 04 Agustus 2024

³⁶ Ifham Taufiq Lubis, Kepala Seksi Tindak Pidana Umum Kejari Aceh Singkil, Wawancara, tanggal 02 Agustus 2024.

³⁷ Darma Mustika, Kepala Seksi Tindak Pidana Umum Kejari Aceh Barat, Wawancara, tanggal 02 Agustus 2024.

³⁸ Said Midi, Geuchik Desa Drien Rampak Kecamatan Aceh Barat, wawancara tanggal 2 Agustus 2024

³⁹ Hamidi, Geuchik Lampeuneurt Kabupaten Aceh Besar, Wawancara, tanggal 02 Agustus 2024.

2. That this restorative house is also used to carry out other activities such as sakapur betel village.

That RJ is not only running well in our village, but also in the Darul Imarah District it is being implemented well. That no one from the prosecutor's office has used this RJ house as a place to carry out RJ as stated in the Prosecutor's Regulations. Mr. Rusydi Sastrawan said that knowledge can be disseminated about solving problems through restorative mechanisms. The restorative concept takes the form of an agreement as a concrete effort to realize justice. The agreement can be in the form of compensation for losses, measures to prevent negative impacts. On the other hand, if the restorative meeting fails, the victim can report it to the authorities to be resolved through court so that criminal proceedings can be taken.

Conclusion

Punishment is given to have a deterrent effect on criminals and create a sense of security for victims, however, it has not been able to show its effectiveness, both in terms of legal benefits, legal certainty, or the value of justice. One form of restoring trust in society. The Attorney General has issued Prosecutor's Regulation No.15 of 2020 based on RJ. The Prosecutor's Office, through the Deputy Attorney General for General Crimes, has also issued Letter No.B-4301/E/EJP/9/2020 dated 16 September 2020 and Circular Letter No.01/E/EJP/02/2022 dated 10 February 2022. However, the implementation of the innovative policy of establishing RJ houses at the village level in Aceh Province has not been implemented effectively. The obstacle in implementing RJ Houses is the lack of awareness of the parties and local customary stakeholders of the importance of resolving criminal acts outside of court. Meanwhile, the court is the final point in the criminal case process to determine the defendant's guilt.⁴⁰ Obstacles that occur when there are obstacles in Enforcement of RJ is the resolution of cases through litigation through the District Court which takes a long time and is expensive, tied to formal procedures which are contrary to the principles of procedural law "examinations are as simple as possible, short in time and low in cost."

Suggestion

With very fundamental changes regarding the orientation of punishment in Indonesia through the implementation of RJ, it is hoped that the public will fully support the government's plans which are contained in the 2020-2024 RPJMN. The application of RJ is an approach that emphasizes recovering losses from the consequences caused by a criminal act. This recovery will be achieved if the process goes well and involves interested parties such as the perpetrator of the crime (suspect), the victim, the families of both parties, traditional institutions (community leaders) and law enforcement officials. This is done by identifying and taking steps to remedy harm (offering recourse to all affected parties, giving perpetrators an opportunity to make amends, addressing the underlying causes of criminal behavior). Furthermore, involving all stakeholders (carrying out an MoU / Cooperation Agreement such as offering and

sharing community values) and the perpetrator of the crime (suspect) is able to take responsibility for the actions he has committed, not for the punishment imposed, and the important thing is that the victim gets justice so that in this way the situation can recover. In this way, no one will be harmed, no one will feel defeated or won, but rather both parties will feel victorious and balance, tranquility and peace in society will be realized as expected.

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