

## House of Restorative Justice as a Forum of Actualizing the Nation's Culture in Solving Criminal Cases

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### Abstract

House of Restorative Justice is a follow-up to the existence of the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice. The establishment of this house aims to be a forum for meeting victims, perpetrators in resolving criminal cases that also involve traditional, community and religious leaders in exploring the values of local wisdom to perfect the application of positive law in the implementation of the termination of prosecution based on the Prosecutor's Regulation Number 15 of 2020. This research is a legal socio research that has the nature of descriptive and analytical research. The urgency of the establishment of the House of RJ is to explore the values of local wisdom contained in the community Restorative justice is in line with the legal values that live in Indonesian society (living law). It essentially rests on the three main goals of life, namely the creation of peace in society, the realization of harmony in life and the maintenance of a cosmic balance between people's lives as well as an effort to preserve the legal culture of the Indonesian nation that prioritizes deliberation and consensus. The implementation of local wisdom values in resolving cases at the House of RJ. Currently, it is still only based on the settlement method, namely by using deliberation for consensus, but in this study, the prosecution in Toba Samosir and Kajang has accommodated local customary values and laws. Hence, in this case, the law and values of local wisdom can be used as a complement in the implementation of positive law enforcement.

**Keywords:** House of Restorative Justice; Restorative Justice; criminal law; local wisdom; law enforcement.

### Abstrak

Rumah Restorative Justice yang merupakan tindak lanjut dari adanya Peraturan Kejaksaan Republik Indonesia Nomor 15 Tahun 2020 tentang Penghentian Penuntutan Berdasarkan Keadilan Restoratif, dimana pembentukan rumah ini bertujuan untuk menjadi wadah bertemunya pihak korban, pihak pelaku dalam menyelesaikan perkara pidana yang juga melibatkan para tokoh adat, masyarakat dan agama dalam menggali nilai-nilai kearifan lokal guna menjadi penyempurna penerapan hukum positif dalam pelaksanaan penghentian penuntutan berdasarkan Perja Nomor 15 Tahun 2020. Penelitian ini merupakan penelitian socio legal yang memiliki sifat penelitian deskriptif dan analitis. Adapun urgensi dibentuknya Rumah RJ adalah untuk menggali nilai-nilai kearifan lokal yang terkandung di masyarakat Keadilan restoratif selaras dengan nilai-nilai hukum yang hidup dalam masyarakat Indonesia (living law) yang pada hakekatnya bertumpu pada tiga tujuan utama kehidupan yaitu terciptanya kedamaian dalam masyarakat, terwujudnya harmoni kehidupan dan terjaganya keseimbangan kosmis antara kehidupan masyarakat serta merupakan upaya melestarikan budaya hukum bangsa Indonesia yang mengedepankan musyawarah dan mufakat dan pengimplementasian nilai kearifan lokal dalam penyelesaian perkara di Rumah RJ saat ini masih hanya bertolak pada metode penyelesaiannya saja yaitu dengan menggunakan musyawarah untuk mufakat, namun dalam penelitian ini di pelaksanaan penuntutan di Toba Samosir dan Kajang telah mengakomodir nilai-nilai dan hukum adat setempat, sehingga dalam hal ini hukum dan nilai-nilai kearifan lokal dapat digunakan sebagai penyempurna dalam pelaksanaan penegakan hukum positif.

**Kata kunci:** Rumah Restoratif Justice; restorative justice; keadilan restoratif; kearifan lokal, penegakan hukum

## Introduction

Law as a social rule cannot be separated from the values that apply in a society, it can even be said that law is a reflection of the values that live in society. A good law is a law that is in accordance with the living law in society. It is a reflection of the values that live in society. Indonesia is a country consisting of plural ethnic groups, so in this case the local wisdom that grows and develops in the community is very closely related to customary law in regulating daily life and is used in solving a problem that occurs in society. The variety of ethnic groups in the territory of Indonesia has an impact on their respective customary legal systems to regulate the life of a diverse society, most of which are not in the form of written rules. Constitutionally, the existence of indigenous peoples is regulated in the 1945 Constitution, the 4th Amendment to Article 18B paragraph (2), which states "The State recognizes and respects the unity of indigenous peoples and their traditional rights as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia as stipulated in the law."

The existence of local wisdom values itself is still inherent in society, but this seems to sink and is increasingly marginalized, especially in the criminal system in Indonesia. This is a logical consequence where the current criminal law system still uses the legacy of the Dutch East Indies colonial legal system known as *Wetboek van Straftrecht* which emphasizes the punitive nature, this is because in legal politics the effectiveness of law enforcement. Hence, the creation of this criminal system is motivated by the thought of individualism-liberalism and is strongly influenced by classical and neoclassical traditions to theory criminal law and the conviction of Dutch colonial interests in its colonies (Teguh and Aria, 2011). Therefore, the direction of criminal law enforcement is actually *primum remedium* rather than the position of criminal law as *ultimum remedium*.

The implementation of the criminal justice system in Indonesia in general is still predominantly retributive, which focuses on the punishment of the perpetrator. This sentencing orientation aims to retaliate and fulfill the demands of public anger due to the perpetrator's actions. Over time, nowadays there has been an alternative to the retributive punishment method, which is an idea that emphasizes the importance of solutions to improve the situation, reconcile the parties and restore harmony to society while still demanding the accountability of the perpetrator. This theory is known as restorative justice (Dewi and Syukur, 2011). The concept of restorative justice prioritizes the integration of the perpetrator on the one hand and the victim or society on the other as a unit to find solutions and return to the pattern of good relations in society (Prayitno, 2012).

Talking about rhetorative justice, the Prosecutor as the holder of the *dominus litis* principle in the criminal law system has made a legal breakthrough, namely by issuing the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice (Prosecutor's Regulation of Restorative Justice), as for the starting point for the birth of the regulation is a form of prosecution discretion by the public prosecutor which is at once an embodiment of the

principle of *dominus litis*. As for the form of efforts to further optimize the policy with the establishment of the House of Restorative Justice, the establishment of this forum is aimed at restoring peace and harmony in society. Hence, the Prosecutor, in the context of carrying out the duties of law enforcement and justice, prioritizes peace and restoration in its original state in accordance with the cultural values of the Indonesian nation which prioritizes peace, harmony and cosmic balance, no longer focuses on the provision of criminal sanctions in the form of deprivation of one's freedom.

The enthusiasm of the community in the formation of the House of Restorative Justice is very high, where until now 410 Houses of RJ have been formed spread across 33 areas of the Prosecutor's Offices. House of RJ become a forum for the absorption of local wisdom values. Although, in some regions, it is also only used as an institution to revive the role of community, religious and traditional leaders to work together with law enforcement, especially prosecutors in law enforcement processes oriented towards substantive justice and to balance between applicable rules (*rechtmatigheid*) and interpretations that rely on the purpose or principle of *expediency* (*doelmatigheid*) so as to solve law enforcement problems.

Throughout the author's search, there has not been a single article or research that specifically discusses the house of restorative justice, this is because the existence of the RJ house is a new institution because it was only implemented in March 2022 by the Prosecutor's Office of the Republic of Indonesia. The urgency of this paper is to comprehensively discuss what is meant by the House of RJ, the functions and mechanisms of the implementation of the Termination of Prosecution policy based on the Principle of Restorative Justice contained in the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020 concerning The Termination of Prosecutions Based on Restorative Justice.

## Research Problems

Based on the description contained in the background mentioned above, several formulations of the problem can be drawn, namely:

1. Why is the House of Restorative Justice necessary in the context of implementing the Policy of discontinuing prosecutions based on restorative justice by the Prosecutor's Office of the Republic of Indonesia?
2. How is the implementation of the value of local wisdom in the settlement of criminal cases through the concept of restorative justice in the House of Restorative Justice?

## Research Method

The method used in this study is socio-legal which has the nature of descriptive and analytical research. This research is not only limited to the text, but there is also a deepening of the context that includes all processes such as from the formation of laws (law making) to the work of law (implementation of law) (Wiratman, 2008). Socio-legal

research is an attempt to explore and explore a problem by not only covering the studies of legal norms or doctrines, but also how a norm is carried out.

As a legal research, this research is planned to use interactional with qualitative analysis in order to analyze logically systematic, qualitative methods as a research procedure that produces descriptive data in the form of written or spoken words of people and observed behaviors (Moleong, 2002). The types of data used are primary data obtained directly from the Young Attorney General for General Crimes and secondary data through literature and document studies.

## Discussion

### **The Urgency of the House of RJ in implementing the Policy of Discontinuing Prosecutions Based on Restorative Justice**

*Restorative Justice* is the antithesis of the penal policy in Indonesia, where there are several examples of law enforcement related to criminal acts that hurt the sense of justice of the community. It is because law enforcement in Indonesia will not be able to be separated from Law Number 8 of 1981 concerning the Criminal Procedure Law which only refers to the implementation of formal law. In other words, law enforcement has a form of embodiment by means of criminal convictions or sanctions. In this regard, Sauer stated that there are three basic understandings in criminal law, namely the nature of being against the law, wrongfulness and criminal (Priyatna, 2007). The concept of restorative justice is also an answer where in law enforcement that is carried out today it does not accommodate the interests of victims, so in this case Bagir Manan argues that Indonesian law enforcement can be said to be *communis opinio doctorum*, which means that law enforcement is now considered to have failed in achieving the goals hinted by the law (Arafat, 2017).

The politics of criminal law that prioritizes *primum remidium* has now been considered to fail to meet the sense of justice in society. It is because there are several influencing factors, namely although the law has been established but has not been able to restore the interests of victims, the political direction of Indonesian law today has shifted towards Restorative Justice, this can be reflected in The National Medium-Term Development Plan 2020-2024, Chapter VIII Strengthening the Political Stability of The Defense Law of Security and Transformation of Public Services, relating to the Policy and Strategy Direction of the National Law Enforcement Section, one of its directions and policies reads:

1. Improvement of the criminal and civil law system whose strategy is specifically related to the application of restorative justice, namely the optimization of the use of regulations available in laws and regulations that support Restorative Justice,
2. Optimizing the role of indigenous institutions and institutions related to alternative dispute resolution, prioritizing efforts to provide rehabilitation, compensation, and restitution for victims, including victims of human rights violations.

The Prosecutor's Office of the Republic of Indonesia, in this case, as a law enforcement institution in carrying out its duties and authorities, always refers to the political direction of national law. Therefore, the embodiment in carrying out the political direction of the law, as in the 2020-2024 The National Medium-Term Development Plan 2020-2024, has issued a policy of resolving cases using the Restorative Justice method with the issuance of the Restorative Justice Act. This policy basically regulates the termination of the prosecution of certain crimes. It is based on the existence of some law enforcement that is formally in accordance with positive law but by doing so, it actually hurts the sense of justice that grows and develops in society itself. The Restorative Justice Program itself can be implemented to resolve certain cases. The conditions for the implementation of this policy have been regulated limitatively in the provisions of Article 5 Paragraph (1) of the Restorative Justice Act which states:

1. The suspect committed a criminal offence for the first time
2. Criminal acts are only threatened with a fine or threatened with imprisonment of not more than 5 years
3. Criminal acts are carried out with the value of evidence or the value of losses incurred due to criminal acts not more than Rp. 2,500,000.00.

In addition, in exercising their authority regarding the Termination of prosecution based on Restorative Justice, the public prosecutor must pay attention to the provisions of Article 4 of the Restorative Justice Act, namely:

1. The interests of the victim and other legal interests that protect;
2. Avoidance of negative stigma;
3. Avoidance of retaliation;
4. Community response and harmony;
5. Propriety, decency and public order.

In addition, in implementing this policy, the Public Prosecutor in carrying out the termination of prosecution under this Restorative Justice Act must also consider the following:

1. Subjects, objects, categories and threats of criminal acts;
2. The background of the occurrence of a criminal act;
3. Degree of reproach;
4. Losses or consequences arising from criminal acts;
5. Cost and benefit of handling cases;
6. Recovery back to its original state; and
7. There is peace between the victim and the perpetrator.

Based on the above, the implementation of this policy is not only oriented towards the recovery of victims and the existence of peace between victims and perpetrators, but also a role for the community to respond positively which is based on the community's assessment of the values of propriety, decency and public order to maintain harmony in society itself. Judging from this, to optimize the implementation of the Restorative Justice of Prosecutor's regulation, the House of RJ was formed. As for the reason for the

establishment of the RJ House to become a forum for solving problems in the community, especially minor crimes as stipulated in the provisions in the Restorative Justice Regulation, it is a legal breakthrough to resolve criminal cases outside the court by emphasizing the recovery of victims' losses.

Related to the law enforcement of the restorative justice of Prosecutor's Regulation, it will correlate with legal culture, related to this, Lawrence M. Friedman emphasized that the law consists of 3 (three) components, namely legal norms (legal substance), law enforcement officers (legal structure) and legal culture (Masinambow et.al., 2003). *Legal culture* is a subsystem that greatly determines the success of law in achieving its goals, especially in positioning the concept of restorative justice. It is because a good legal substance and a capable legal structure will not be able to achieve legal goals if the legal culture is not supportive.

The legal culture can be seen from the culture of a nation, where in this case the source of Indonesian law is Pancasila as the state ideology. Pancasila is positioned as the basic norm of the state (*staats fundamental norm*), so that every legal norm that is its derivative must make Pancasila as its philosophical basic source. The Pancasila-based legal system is a reflection of the nation's spirit that prioritizes moral values, kinship, harmony, balance, deliberation, and social justice, related to this, the Indonesian legal system should be based on Pancasila values. The original purpose of the law was to organize people's lives for the better, this was the idealism behind the birth of law in the community from the beginning, the source of creating *das sollen* is nothing but what is called ideology. Ideology here means everything that concerns the most central and essential values, so that on that basis we can judge and make improvements to everything else in our lives (Tanya, 2011).

The correlation between the objectives and the implementation of the Restorative Justice Regulation is also in line with the values of Pancasila in the law reflecting a justice, order, and welfare desired by the Indonesian people, as stated in the second Precept of Pancasila, namely "*Kemanusiaan yang adil dan beradab*" (a just and civilized humanity). The Precept contains human values that must be upheld, especially in treating someone who faces the law is in the form of the right to be treated equally upfront in the process of the judicial system. In addition, the value of Pancasila contained in the concept of restorative justice is also illustrated through the process of legal completion through deliberation. It is in line with the noble value of the nation which is actually Pancasila. Consultancy and consensus are the main points of thought of the Indonesian cultural system, as affirmed in the fourth precept of Pancasila which reads "*Kerakyatan yang dipimpin oleh hikmat kebijaksanaan dalam permusyawaratan/perwakilan*" (People led by wisdom in consultative/representative).

Restorative justice is based on justice created between all parties involved, both perpetrators, victims, and the State represented by law enforcers. Basically, the concept of restorative justice is in line with the concept of the fifth precept of Pancasila "*Keadilan Sosial Bagi seluruh Rakyat Indonesia*" (Social Justice For all Indonesian people), the main value contained in the Pancasila is based on the concept of the existence of a goal to

provide equal opportunities for all citizens in developing their personal economy and to be given equality in the law (Fatlolon, 2016). Regarding further explanation, Purwanto (2017) elaborates on the meaning of Social Justice in the Preamble to the 1945 Constitution of the Republic of Indonesia, which has explicitly stated that there must be a manifestation of the principle of equality and be placed in the same degree in living a normal life together in carrying out life. everyday life in the form of willingness to be useful to others. Regarding the value of social justice which is associated with the value of deliberation, Atmoredjo (2019), explained that deliberation is an embodiment of the Pancasila philosophy, especially the value of social justice that must be created between all parties involved.

With the establishment of the Restorative Justice house, community leaders, both religious leaders, and traditional leaders will have a sense of responsibility in maintaining cosmic peace and balance in their respective regions. Hence, harmony in society will be maintained in accordance with the noble values that live in Indonesian society. Some of the benefits of establishing a Restorative Justice House are:

1. The purpose of the law to uphold justice that provides benefits to society will be achieved while ensuring legal certainty.
2. Community leaders consisting of religious leaders and/or traditional leaders will have a greater sense of responsibility to maintain cosmic balance and maintain harmony in society.
3. Any policy in resolving cases taken by the Prosecutor's Office will be directly benefited by the community, because the policy is decided by the Prosecutor as a *dominus litis* together with the community represented by religious leaders and traditional leaders as well as warring parties (perpetrators and victims) by taking into account the values of justice that grow and develop in a society that is aligned with positive law.
4. Any problems that occur will be resolved quickly, simply and at low cost, so as to ease the performance of law enforcement, Law Enforcement Officers (police, prosecutors and judges) can focus more on dealing with large-scale crimes in the fields of security and public order, narcotics, economy and other major cases.

Moving on from the purpose of the establishment of the RJ House, in this case, the victim of a crime no longer needs to go to law enforcement to report a crime that harms him and no longer needs to spend time in the trial process to ask for justice, because the Prosecutor as *dominus litis* is in the middle. them, together with community leaders to solve problems occurred. Restorative justice is one of the agendas in reforming the criminal law system in Indonesia, this is in line with integrative legal theory, this is because the concept of restorative justice is based on legal goals for self-esteem, happiness, welfare, and human dignity. Integrative legal theory is the basis that bureaucratic engineering and community engineering must be based on Pancasila as the ideology of the Indonesian nation, which as we know Pancasila is the source of law in Indonesia. The integrative legal theory emphasizes that the law essentially consists of norms, actors, and values as can be referred to as *tripartite character of Indonesia's social engineering* (Atmasasmita, 2012).

Hence, the urgency with the establishment of RJ House is to harmonize the legal values that live in Indonesian society (living law) which basically rests on the three main goals of life, namely the creation of peace in society, the realization of harmony of life and the maintenance of the cosmic balance between community life and the universe with the applicable positive law, in this case it is the criminal law and the criminal procedural law. Harmony in community life cannot be done only by the perpetrator and the victim, but harmony can only be done by involving the community around the event represented by community leaders, both religious leaders and existing figures as the mechanism for the concept of restorative justice as regulated in the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice.

### **The Use of Local Wisdom Values in Solving Criminal Cases Through the Concept of Restorative Justice in Restorative Justice Houses**

Regarding the application of restorative justice, moving from the empirical level in customary law, the concept of restorative justice has actually been known, for example, in Javanese custom, there has been an institution called Rembug Desa. It aims to resolve the offenses of violating customary norms that occurred in society, at the level of this concept, the perpetrators, victims and the community, who in this case are represented by traditional leaders, hold deliberations to find solutions for the best solution for the violation of the customary offense. The concept of this settlement in decision-making also pays attention to the impact of violations against victims and the ability of the perpetrators to make reparation for the victim. This kind of institution is also found in Minangkabau, West Sumatra, known as the Nagari Traditional Density Institution (Burhanuddin, 2021).

Based on several examples of the embodiment of the concept of restorative justice as exemplified above, in essence, the dispute resolution process at the customary level still prioritizes the recovery of victims for what they have suffered as a result of the occurrence and involvement of figures, this is also in line with the method of resolving criminal cases with certain characteristics as outlined in the Restorative Justice of Prosecutor's Regulation, where in the process of terminating the case based on restorative justice, it starts with the restoration to its original state. It begins with an apology from the perpetrator (and the perpetrator's family) to the victim (and the victim's family) witnessed by local community leaders, both religious leaders, and traditional leaders.

This method is known as the *Afdoening buiten* process, in this case, it is defined as the settlement of cases out of court in this case which is the object of a criminal act that can be resolved through the Restorative Justice Perja itself regulated in the provisions of Article 5 paragraph (1) of the Restorative Justice of Prosecutor's Regulation, which states:

1. This is the first time the suspect has committed a crime
2. Criminal acts are only punishable by a fine or punishable by imprisonment of not more than 5 years



3. The crime is committed with the value of the evidence or the value of the loss caused by the crime of not more than Rp. 2,500,000,000.00.

In addition, the Restorative Justice of Prosecutor's Regulation also regulates the exclusion of types of criminal acts that can be resolved through this policy as stipulated in the provisions of Article 5 Paragraph (8), which states: Discontinuation of prosecution based on Restorative Justice is excluded for cases:

1. criminal acts against state security, the dignity of the President and Vice President, friendly countries, heads of friendly countries and their representatives, public order and morality;
2. a criminal act that is punishable by a minimum criminal threat;
3. narcotic crime;
4. environmental crime; and
5. criminal acts committed by corporations.

In relation to this, Arief (2008) stated that out-of-court settlements have practically been carried out in various criminal cases through the discretion of law enforcement, deliberation of perpetrators and victims, and various other methods. The out-of-court settlement is needed to help the state reduce unnecessary costs in the judicial process, and to achieve the principle of fast, simple, and low-cost judicial settlement out of court. On the basis of the apology, the prosecutor initiated a discussion between the perpetrator and the victim, including their families, witnessed by community leaders.

The implementation of local wisdom values in the application of the Restorative Justice of Prosecutor's Regulation can be reflected in its implementation. The implementation uses the deliberation method for consensus, which in the forum consists of the victim, the perpetrator, and elements of society which in this case consists of religious, traditional, and community leaders and facilitated by the Prosecutor. The form of accommodating local wisdom in this implementation is reflected in the provisions of Article 8 paragraph (2) of the Restorative Justice Perja which states: "*dalam hal dianggap perlu upaya perdamaian dapat melibatkan keluarga Korban/Tersangka, tokoh atau perwakilan masyarakat, dan pihak lain yang terkait*" (In the event that it is deemed necessary, peace efforts may involve the families of the Victim/Suspect, community leaders or representatives, and other related parties) The phrase in the provision has the meaning that in carrying out the prosecution based on the Restorative Justice of Prosecutor's Regulation, it involves community leaders or representatives in resolving cases as stipulated in the Prosecutor's Regulation.

In its development, to optimize the implementation of community involvement, the Prosecutor's Office of the Republic of Indonesia issued a policy to establish the RJ House. RJ's house was formed with the reason to be a forum for solving problems in the community, especially minor crimes as regulated in the provisions in the Restorative Justice of the Prosecutor's Regulation. It is a legal breakthrough to resolve criminal cases out of court by emphasizing the recovery of victims' losses. Regarding the existence of this space, in this case, the Prosecutor as a facilitator can explore the values of justice and local

wisdom in the settlement of criminal cases which can be resolved through the instrument of the Restorative Justice Court.

An example is the implementation of the method of actualizing the values of local wisdom in resolving cases is the RJ House institution that uses local wisdom as practiced at the RJ House in the Toba Samosir Prosecutor's Office, where in the settlement of cases of destruction of goods on behalf of the defendant Dompok Sitorus, in which case, this is the settlement of the case, the customary group uses instruments *Martonggo Raja* where the Batak community is the King and with the Batak *umphasa* (pribahasa) "*Met met bulung ni jior, um met-metan bulung ni bane bane. Denggan marhata tigor, um denggan do marhata dame* (it's better to say straight, it's better to say peacefully), where in this forum the indigenous people give consideration to the prosecutor to make peace efforts related to the case because in this case, the community considers peace to be more beneficial in resolving the case, that there is an element of forgiveness from the victim and also the recovery received by the victim.

In addition, an example of the actualization of local wisdom mechanisms in resolving cases at the RJ House in the implementation of the Restorative Justice of Prosecutor's Regulation was also applied in the South Sulawesi region, where in the case of persecution at the Bulukuma District Attorney's Branch in Kajang, on behalf of Saleh Bin Bukka, where in the deliberation held there are traditional leaders who provide advice and input based on the Tana Toa Kajang Criminal Law. Which is in the law, it is distinguished based on the severity and severity of the act of persecution. Hence, it is because the level of abuse carried out is still in the mild category, the traditional leader suggested it is better to reconcile this case, this is also in line with the Tana Toa Kajang legal system which makes the customary criminal law system the last step or the *ultimum remedium*.

Moving on from the 2 (two) case examples raised in this paper, the method of implementing local wisdom values in the implementation of the Restorative Justice Act is accommodated in the deliberation process facilitated by the Prosecutor. Hence, the involvement and reactivation of both traditional and religious leaders and the community leaders can be realized in the forum by remaining oriented to the principle of equality and being placed at the same level in the process of resolving the case. This can also revive the existence of local wisdom values and substantial justice that live and grow in society, which has been marginalized by the formality and rigidity of positive law.

## Conclusions

Based on the description above, the writer can draw several conclusions, namely:

1. The urgency of the establishment of the Restorative Justice House is to provide a good space for Law Enforcement Officials. In this case, the Prosecutor together with traditional leaders, religious leaders, and community leaders explores the values of local wisdom contained in the community, where in this case the consideration of these values is also used in considering whether a criminal law problem occurs can be

resolved by the method of the Prosecutor's Office of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. In this case, the forum is a reflection of the legal culture of the Indonesian people who in solving problems use the method of deliberation to reach consensus while still paying attention to and being oriented towards fulfilling the rights of the victims themselves and placing the perpetrators equally before the law.

2. The use of local wisdom values in the settlement of criminal cases through the concept of restorative justice at the Restorative Justice House, for now, is more based on the settlement method, namely by using deliberation for consensus between victims, perpetrators, and community leaders. In this case, it is implemented the prosecution in Toba Samosir and Kajang has accommodated local customary values and laws. Hence, the law and values of local wisdom can be used as complements in implementing positive law enforcement.

## Suggestions

1. Restorative justice is a necessity in reforming the criminal law system. To avoid overlapping regulations regarding restorative justice, it is deemed necessary to reorganize regulations, at the statutory level in order to renew the substance of the criminal law system in Indonesia.
2. The Restorative Justice House is a forum for prosecutors to explore the values of justice that grow and develop in a society harmonized by the positive law to resolve a legal problem. Hence, they can make decisions based on substantive justice so that with law enforcement the community can feel the benefits of the process of law enforcement. It is hoped that the implementation of local customary values can be applied throughout the Restorative Justice House in the consideration of decision-making for discontinuing prosecution based on restorative justice.

## References

- Arafat, Yasser. (2017). Penyelesaian Perkara Delik Aduan Dengan Perspektif Restorative Justice. *Takalar: Jurnal Borneo Law Review*. 1(2). 127-145.
- Arief, Barda Nawawi. (2008). *Mediasi Penal: Penyelesaian Perkara Pidana di Luar Pengadilan*. Semarang: Pustaka Magister.
- Atmasasmita, Romli. (2012). *Teori Hukum Integratif: Rekonstruksi terhadap Teori Hukum Pembangunan dan Teori Hukum Progresif*. Yogyakarta: Genta Publishing.
- Atmoredjo, Sudjito. (2019). *Hukum di Tahun Politik*. Yogyakarta: Dialektika.
- Burhanuddin, ST. (2021). *Keadilan Restoratif: Dalam Bingkai Hati Nurani*. Jakarta: Fakultas Hukum Universitas Pancasila.
- Dewi, DS. dan Fatahillah A. Syukur. (2011). *Mediasi Penal: Penerapan Restorative Justice di Pengadilan Anak Indonesia*. Depok: Indie Publishing.
- Dwidja Priyatno, (2007). *Pemidanaan untuk Anak dalam Konsep Rancangan KUHP (dalam Kerangka Restorative Justice)*, Bandung: Lembaga Advokasi Hak Anak (LAHA).

- Fatlolon, Constantinus. (2016). Pancasila Democracy and the Play of the Good. *Filoracia*. 3(1). 70-92
- Masinambow, E.K.M., (ed). (2003) *Hukum dan Kemajemukan Budaya*. Jakarta: Yayasan Obor Indonesia.
- Moleong, Lexy J. (2002). *Metode Penelitian Kualitatif*. Bandung: Remaja Rosdakarya
- Prayitno, Kwat Puji. (2012). Restorative Justice untuk Peradilan di Indonesia. *Jurnal Dinamika Hukum*. 12(3). 407-420.
- Purwanto. (2017). Perwujudan Keadilan dan Keadilan Sosial dalam Negara Hukum Indonesia. *Jurnal Hukum Media Bakti*. 1(1).
- Tanya, Bernard L. (2011). *Politik Hukum, Agenda Kepentingan Bersama*. Yogyakarta: Genta Publishing.
- Teguh dan Aria. (2011). *Hukum Pidana Horizon baru Pasca Reformasi*. Jakarta: Raja Grafindo Persada.
- Wiratman, Herlambang P. (2008). *Penelitian Sosio Legal dan Konsekuensi Metodologisnya*. Surabaya: Center of Human Rights Law Studies.