

Original Research Article

Implementation of Restorative Justice for Handling of Criminal Acts of Abuse

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Abstract: This article aims to identify and analyze the implementation of Restorative Justice (RJ) in handling criminal acts of persecution and types of criminal persecution committed by RJ. The empirical legal research method is used because it examines its application. The location chosen was the Kuniran Polsek, Probolinggo. The results show that user restorative justice has been carried out in the environment in the Pakuniran Village Regional Police, Pakuniran Police, Probolinggo, East Java -Indonesia. The results show that within one year, more than 10 cases of criminal acts of maltreatment were resolved using a Restorative Justice approach. Success was due to the solid collaboration of FORKOPIMDA and Religious Leaders, Community Leaders, and Youth Leaders in the Pakuniran Village Area, Pakuniran Police, and Probolinggo Police. Collaboration starts from the complaint process, meetings, and until the signing agreement peace among the parties. Meanwhile, the criteria for the types of crimes of persecution that can be carried out by restorative justice are based on the provisions of criminal acts in general, by Article 5 of the Regulation of the State Police of the Republic of Indonesia Number 8 of 2021. Even though the crime of persecution can cause public unrest and lead to social conflict, the Polres Probolinggo could direct RJ to the crime of persecution.

Keywords: Implementation, Restorative Justice, Criminal Actions.

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INTRODUCTION

In the development of Indonesian criminal law, restorative justice as a new approach to the settlement of criminal acts, Restorative justice still needs to be implemented to seek peaceful conflict resolution outside the courts. In Indonesia, many customary laws can become restorative justice, but their existence needs to be recognized by the state and codified in national law. Customary law can resolve conflicts that arise in society and provide satisfaction to the conflicting parties. The emergence of restorative justice is because the judicial process has not provided justice to the victims. Efforts towards restorative justice exist in correctional institutions, although they are still not prominent. This application, for example, places the coaching period as a place to re-equalize the relationship between prisoners and victims.

In Indonesia today, restorative justice can be applied in several forms, viz: family group meeting, services in the community services provided in terms of recovery, and at every stage of the justice system, one

must be carried out/1 deliberation with the aim of recovery for perpetrators, victims, and society. The Criminal Investigation Unit at the Polres level, in this case, the Polres Probolinggo can affects the success of the Polri institution in carrying out its duties. In the examination process, investigators may not discriminate between people, both suspects and victims; investigators must carry out their duties as stipulated in statutory regulations by upholding the principle of equality before the law and continuing to uphold the principle of equality before the law (Dewi and Fatahilah, 2011).

The concept of restorative justice or restorative justice as an alternative type of settlement arose in reaction to the system performance of traditional/conventional criminal justice, which includes the following characteristics: "Those who act for the settlement of cases are the legal apparatus (police, prosecutors, courts, and correctional institutions) on behalf of the state for the public interest/community (victims), and lawyers/advocates on behalf of the perpetrators, without involving the public, perpetrators,

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and victims directly or the active participation of the parties involved in the criminal act to solve their problems.

It likes whereas the outcome of the choice (output) tends to be punitive or retaliatory, rather than a "win-win solution" (suitable for both sides) decision; perceived justice is retributive (emphasizing justice on retaliation) and restitutive (emphasizing compensation) and does not consider ways to create restorative justice that can be experienced by all parties (stakeholders).

The ultimate goal of this restorative justice concept is to reduce the number of prisoners in prison; eliminate the stigma or stamp and return the perpetrators of crimes to normal humans; perpetrators of crimes can realize their mistakes, so they do not repeat their actions and reduce the workload of the police, prosecutors, detention centers, courts, and institutions penitentiary; saving state funds does not create a feeling of revenge because the perpetrator has realized his or her mistakes.

Application of restorative justice, especially in the environment institution the police are already running in Indonesia. Studying the field, its application, and the obstacles faced by police officers need to be studied, considering that Indonesia has a very diverse society. Next, in progress restorative justice, unique in this study, will also explore related to the parties outside litigants who are also involved. Based on the description then, this article examines the application of Restorative justice at the Probolinggo Police and the criteria for the type of crime of persecution that can be resolved through Restorative justice.

METHODOLOGY

The type of research used is empirical legal research because studying the application of the Restorative Justice approach at the Probolinggo Police used namely the legal and social approaches. Location which The selected area is the Pakuniran Village Police, Pakuniran Police, Probolinggo, East Java -Indonesia.

DISCUSSION

The implementation of Restorative Justice (RJ) in the Probolinggo Police has inspired the Progressive Law Theory proposed by Satjipto Raharjo, namely that legal thought must return to its fundamental philosophy, namely law for humanity. Humans are responsible for serving the law, not the other way around. Consequently, the law is an institution full of human concerns. The measure of a law's excellence is its capacity to promote human welfare. This resulted in progressive legislation that adhered to philosophy, including pro-justice and pro-people laws. In this instance, the application of RJ at the Probolinggo Police has successfully implemented legal reforms.

The law no longer focuses on punishment; it focuses more on the human element and rights as social beings. Even though the crime of persecution that occurred in the Probolinggo Police area was not minor, sometimes it could even be categorized as a severe crime; the Probolinggo Police worked with the community in this matter. FORKOPIMDA (Village Leadership Communication Forum), Toga (Religious Leader), Toda (Youth leader), and Tomas (community leader) synergize with each other. So that it can reduce the burden on the state in terms of costs for Correctional Institutions because many criminal cases of persecution are completed at the police level, not until they are entered into the realm of the judge. The following is data on the handling of RJ at the Probolinggo Police in 2022:

Table 1: Application of RJ in Cases during 2022

SETTLEMENT THROUGH RESTORATIVE JUSTICE						
JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY
3	6	12	9	16	9	5

Secondary Data Source: Selra Probolinggo

From the table above, it can be seen that every month there is always a case handling using RJ. To analyze findings besides Progressive Law theory also used the justice theory initiated by Aristotle in of the two kinds of justice used are justice commutative and distributive justice, the meaning of which is as follows are commutative Justice is Justice that gives each person his part, where the priority is sure to object to the rights of a person. Commutative justice is concerned with the relationship between people/between individuals. Here it is determined that achievement is equal in value to counter-achievement. Distributive justice is justice that gives each person his right, where

the subject of rights is the individual, while the subject of obligations in society is. Distributive justice is concerned with the relationship between individuals and society/state. What is emphasized here is not the principle of equality (achievement is the same as contra achievement). Instead, what is determined is the principle of proportionality or comparability based on skills, services, or needs. This justice concerns social goods such as positions, goods, honor, freedom, and rights.

The author assumes that the two types of justice are by the principle of justice restorative in

Republic of Indonesia National Police Regulation Number 08 of 2021 concerning Handling of Crimes Based on Restorative justice. In the interview, we will get a clearer picture of the problem of restorative implementation justice at the Probolinggo Police, which can be described as follows: In January 2022, 1 case of persecution related to Article 351 of the Criminal Code was handled on behalf of the reporter Marsito and the reported person was named judge. This case was successfully carried out by RJ and ended with a Publication Letter of Termination of Investigation (SP3). As of February 2022, 3 cases of persecution have been handled chapter 351 of the Criminal Code and Article 352 of the Criminal Code, and all three ended with reconciliation and the issuance of SP3. In March 2022, the Probolinggo Police handled 8 cases of persecution, all related to Article 351 of the Criminal Code, all of which ended in peace and the issuance of SP3. In April 2022, RJ did not handle the Crime of Persecution but other cases. In May 2022, there was five criminal acts Persecution that have been resolved with RJ, including criminal acts related to article 351 of the Criminal Code, criminal acts of abuse of minors, and cases of domestic violence, to all ends with the release of SP3. In June 2022, there were 4 cases of abuse related to cases of abuse of minors; violence against officials who are carrying out their duties article 212 in conjunction with article 351 of the Criminal Code; and domestic violence, all of which were carried out by RJ and SP3. In July, the Probolinggo Police handled 2 cases of persecution related to Article 351 of the Criminal Code. Dud both ended with SP3. In August and September 2022, RJ did not handle the Crime of Abuse, but other cases. In October 2022, there were 5 cases of criminal acts of persecution that were resolved through RJ, related to cases of article 351 of the Criminal Code, article 352 of the Criminal Code, article 44 of the Republic of Indonesia Law no 23 of 2004 concerning PKDRT and article 352 of the Criminal Code, to all ends with SP3. In November 2022, RJ did not handle the Crime of Persecution but other cases. On month december handled one persecution case, which ended peacefully with RJ and the issuance of SP3. Last in January 2023, there was still 1 case that had been handled related to article 352 of the Criminal Code, ending peacefully and SP3.

All the cases that have been resolved above thanks to the cooperation of various parties apart from the willingness of the two parties to the litigation, there are parts of the community who are also involved in the 3 Pillars, namely those whose elements are Village Head, Bhayangkara Advisor for Public Security and Order (BHABINKAMTIBMAS), Bhabinsa (TNI) or called FORKOPINDA (Village Leadership Communication Forum). In addition, religious leaders, community leaders, and youth leaders are involved. From every problem in the village in the Probolinggo environment, these three pillars communicate with each other, not always towards punishment but prioritizing

coaching. This is called problem-solving with Problem Solving. The basis for its implementation is the rules regarding RJ, namely the Regulation of the State Police of the Republic of Indonesia Number 8 of 2021. However, the problem cannot be resolved at the FORKOPINDA level. In that case, it will be continued to a higher level than is FORKOPIMKA (Forum leadership communication districts), consisting of sub-district heads, police chiefs, and military commanders. Thus, up to the FORKOPIMDA level, which consists of the mayor, the Head of Police, and the Dandim.

Facts that happened in the Century before being propagated and obligated by the Regulation of the State Police of the Republic of Indonesia Number 8 of 2021, Concerning the Handling of Criminal Acts. Based on Restorative Justice, when a criminal case of persecution is resolved through a criminal justice mechanism, law enforcement officials pay more attention to the perpetrators of the crime, namely the suspect or defendant. The attention of law enforcement officials seems to be focused only on the suspect or defendant, while the victim himself receives less attention. For law enforcement officials, police, prosecutors, judges, and legal advisers, it is as if all problems have been resolved when a defendant can be found guilty of committing a crime and subject to imprisonment or confinement for a specific time.

The perception of law enforcement officials is that all their tasks have been completed when a perpetrator of a crime has been put into a correctional institution. In contrast, the material losses and physical and psychological trauma suffered by the victim due to the crime seem to have been ignored. Even though such cases have been legally formally completed, in essence, they are not finished when the victim harbors deep feelings of disappointment, and not infrequently it reappears in the form of acts of revenge against the perpetrators of abuse on another occasion, while in essence, the law functions to create a sense of justice in society. The prison system is an outlet for public hatred that the state accepts and carries out.

The Criminal Investigation Unit must at least work professionally to achieve upholding the law and a sense of justice. As for Polri's instruments in applying restorative justice to a crime it handles, starting on October 27, 2008, the Chief Decree was issued. State Police Republic of Indonesia No. Pol. KEP/37/X/2008 concerning work program acceleration transformation national police towards independent, professional police, and trusted society in the context of carrying out duties maintenance of Kamtibmas, Law Enforcement, Protection, Protection, and society service Realizing Domestic Security, which still refers to the Grand Strategy of the National Police (2005–2025). As poured, the National Police Grand Strategy has been formulated in 3 (three) stages and reflects effort police gradually, that is: "Phase I: Trust Building (2005 -

2010). Police success in running tasks requires community support with the foundation of trust (trusts). Phase II: Partnership Building (2011 - 2015). According to The National Police Grand Strategy, 2005-2025, continuation of the first stage, in which close collaboration is needed with various parties related to Polri's work. Phase III: Service for Excellence (2016 - 2025). Building superior public service capabilities and trusted by the community

According to See Polri Grand Strategy Phase I (Trust Building), Phase II (Partnership Building, 2011-2015), and Phase III as for several points related to Polri services in the field of investigation, among others: "Upholding the rule of law by upholding the law and always acting by legal provisions, fulfilling a sense of justice and legal certainty. Ensuring the completion of case handling that fulfills a sense of justice and legal certainty and that the handling of cases is informed transparently to the public. Providing better, easier, faster, and quality public services, more comfortable and satisfying for the community. Maintain integrity by not abusing authority, being responsible, transparent and upholding human rights, ethics, and morals, and being neutral, honest, and fair in law enforcement and political activities. Work wholeheartedly by devoting all abilities, thoughts, time and energy to the success of Polri. Applying the principle of reward and punishment by giving awards to members who excel and giving strict sanctions to Polri personnel who violate the law, code of ethics, and Polri discipline. Ensure the continuity of policies and programs implemented by the previous Head of Police, as stated in the 2002-2015 Polri Grand Strategy, 2010-2014 Polri Strategic Plan, reform of the Polri bureaucracy, and accelerated Polri transformation. Obey reform of the Polri bureaucracy and acceleration of POLRI transformation. Obey reform of the Polri bureaucracy and acceleration of POLRI transformation. Obey principle and act fairly by behaving and behaving to ethics, procedures, law, and human rights based on a sense of justice".

At this time, the application of restorative justice in Polres Probolinggo namely the Pakuniran Village Police are running well. The solidity of FORKOPIMDA and religious leaders and Figure Society to realize a society that is aware of the law but still reduces punishment has been achieved. Consideration which done has achieved by the Regulation of the State Police of the Republic of Indonesia Number 8 of 2021, "that the State Police Republic Indonesia needs to realize the settlement of criminal acts by prioritizing restorative justice which emphasizes restoration to its original state and a balance that is not oriented towards punishment is a legal requirement of society" (Republic of Indonesia State Police Regulation Number 8 of 2021

The Restorative Justice mandated in article 1 sub 3 of the Republic of Indonesia Police Regulation

Number 8 of 2021 has been perfectly implemented at the Pakuniran police station, Probolinggo Police. Furthermore, the results of interviews that the author has conducted from various sources regarding the criteria for the Types of Abuse Crimes that can be carried out using RJ are as follows: Head of Binmas Unit of the Pakuniran Police stated, "All cases that come in are attempted to be problem-solving/RJ and do not rule out the possibility of cases or criminal acts of persecution, especially in villages that are very vulnerable to cases of persecution based on trivial matters. For the criteria that can be carried out, RJ still adopts or is based on Article 5 of the Republic of Indonesia National Police Regulation Number 8 of 2021." Babinsa Pakuniran village, Sertu Suherman, stated, "The criteria that RJ can do are still adopting or based on article 5 of the Republic of Indonesia National Police Regulation Number 8 of 2021." Pakuniran Police Chief, Tavip Hariyanto, stated that "the criteria that RJ can carry out are still to adopt or be based on Article 5 of the Republic of Indonesia State Police Regulation Number 8 of 2021, indeed with this RJ, more work is involved. To society, but the positive impact is reducing prison inmates."

Based on the findings above, the criteria for the crime of persecution continue to be based on Chapter II, article 5, Regulation of the State Police of the Republic of Indonesia Number 8 of 2021, regarding the Handling of Crimes Based on Restorative justice, namely: " Condition Materials referred to in Article 4 letter a, includes: does not cause anxiety and rejection from the community; does not impact social conflict; it does not have the potential to divide the nation; not radicalism and separatism; not repeat perpetrators of criminal acts based on court decisions not a crime of terrorism, a crime against state security, a crime of corruption, and a crime against people's lives."

The Probolinggo Police Headquarters has implemented Restorative Justice based on the requirements criteria mandated by Article 5 of the Republic of Indonesia Police Regulation Number 8 of 2021. Even though the crime of persecution can cause public unrest and lead to social conflict, the Probolinggo Police can direct RJ in the crime of persecution. It can only be created with good relations between FORKOPIMDA, toga, tomas, and toda. Apart from that, the community also plays a role, wanting to realize that there are laws in this world, and immediately the community must also be aware that whoever makes a mistake will definitely be punished. However, it does not have to end up in jail.

CONCLUSION AND SUGGESTION

The implementation of Restorative Justice at the Probolinggo Police has been carried out poorly because besides following the Regulation of the Indonesian National Police Number 8 of 2021, the role of the community is also involved in processing

complaints arrived signing peace letter between the parties. It was proven that more than ten criminal acts of persecution cases were resolved within one year using problem-solving or Restorative justice. Success is due to the solid collaboration of FORKOPIMDA and Religious Leaders, Community Leaders, and Youth Leaders in the Pakuniran Village Area, Pakuniran Police, Probolinggo District Police, and Probolinggo Regency.

Meanwhile, the criteria for the types of crimes of persecution that can be carried out by restorative justice are based on the provisions of criminal acts in general, by Article 5 of the Regulation of the State Police of the Republic of Indonesia Number 8 of 2021. Even though the crime of persecution can cause public unrest and leads to social conflict, the Polres Probolinggo can direct restorative Justice in the crime of persecution

Restorative Justice at the Probolinggo Police has been successfully implemented in accordance with the Republic of Indonesia State Police Regulation Number 8 of 2021. This should be maintained and even improved services to the community so that people are more aware of the law not to commit anarchic acts that will harm them, family victims, and their families.

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