

The Implementation of Restorative Justice at the Investigation Stage by the Criminal Investigation Unit of Teluk Mengkudu Police Station on Ordinary Assault Crimes (Research Study at Teluk Mengkudu Police Sector)

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ABSTRACT

According to the Law of the Republic of Indonesia Number 22 of 2009 concerning Traffic and Road Transport, The Regulation of the National Police of the Republic of Indonesia (Perpol) Number 8 of 2021 governs the Handling of Criminal Acts Based on Restorative Justice. This regulation aims to resolve criminal cases by prioritizing the restoration of relationships between perpetrators and victims, as well as involving relevant parties to reach a fair agreement, rather than merely focusing on retaliation or punishment. Based on this, this research focuses on the formulation of problems that include: (1) how the regulation of restorative justice principles in handling assault cases at the Teluk Mengkudu Police Station; (2) how the implementation process of restorative justice principles during the investigation stage of assault cases at the Teluk Mengkudu Police Station; and (3) what obstacles and solutions exist in the implementation of restorative justice during the investigation of assault crimes in that area. Based on research findings, the implementation of a restorative justice approach in handling acts of violence at the Teluk Mengkudu Police Station can be applied to minor assault cases, particularly when there is a peace agreement between the victim and the perpetrator. The reconciliation process is facilitated through mediation by law enforcement officials and local community leaders. However, in practice, investigators face several obstacles, including: demands from the reporting party that exceed the perpetrator's capacity; the perpetrator being a recidivist of previous offenses; the victim refusing to reconcile; and a lack of cooperative attitudes from both parties. Furthermore, prior conflicts between the perpetrator and the victim also hinder the resolution of cases through restorative justice approaches.

Keywords: Restorative Justice, Investigation, Criminal Acts of Assault

INTRODUCTION

The development of the law enforcement system in Indonesia tends to align with the dynamics of the general judiciary, particularly in the application of the principles of restorative justice. The restorative justice approach in resolving criminal cases is expected to deliver a more comprehensive sense of justice by involving the perpetrators, victims, and families from both parties. The main focus of this approach is to restore social relationships among individuals, families, groups, and the community affected by the crime that occurred.

Law enforcement is a series of processes aimed at realizing justice for law violators, so that the applicable legal norms can be effectively implemented in societal and state life. The implementation of law also reflects the effort to realize legal values and ideas to become a reality in practice. A legal rule needs to be enforced to provide a sense of justice and create order within the community. An ideal law enforcement system is one that is capable of responding to the needs of the legal community and ensuring legal certainty.

According to Lawrence M. Friedman, the effectiveness of law enforcement is determined by three main elements: the substance of the law, the structure of the law, and the legal culture of society. The substance of the law refers to the norms and regulations that serve

as the basis for addressing legal violations. To ensure that the implementation of these regulations runs optimally, support from competent human resources in the legal structure, namely law enforcement agencies, is required. Meanwhile, legal culture reflects the attitudes, values, and behaviors of society toward the applicable law, which serves as an indicator of the extent to which society complies with or ignores the law. These three elements are interrelated in shaping an effective and just legal system.

Article 351 of the Indonesian Penal Code states that a perpetrator of assault is punishable by imprisonment for up to two years and eight months or a fine of no more than four thousand five hundred rupiah. If the act results in serious injury, the convicted offender may face a maximum prison sentence of 5 (five) years. If it results in death, the offender may face a maximum prison sentence of 7 (seven) years. The resolution of the case was carried out based on the provisions of the National Police Chief Regulation Number 08 of 2021 concerning Restorative Justice. Article 1 paragraph 3 states that Restorative Justice is the resolution of criminal cases involving the perpetrator, the victim, the perpetrator's family, the victim's family, community leaders, religious leaders, customary leaders, or stakeholders to jointly seek a fair resolution through reconciliation, emphasizing the restoration to the original state. Thus, fundamentally, Restorative Justice serves as a guideline in resolving criminal acts where the judicial process is focused on sentencing.

Table 1. List of Common Assault Crime Cases at Teluk Mengkudu Police Station from 2021 to 2024

No.	Years of	JU NUMBER OF CASES ENTERED	NUMBER OF CASES WITH RESTORATIVE JUSTICE
1	2021	12 Cases	10 Cases
2	2022	17 Cases	14 Cases
3	2023	16 Cases	15 Cases
4	2024	17 Cases	15 Cases
TOTAL KASUS		62 Cases	54 Cases

Looking at the number of assault cases as shown in table 1.1 above, the number of cases in the last 3 (three) years has increased, namely in 2022, 2023, and 2024. Although not comprehensive yet, the figures in this table also indicate that the majority of cases reported to Polsek Teluk Mengkudu can be resolved through restorative justice efforts.

METHODS

This research method is descriptive analysis, of the type of juridical empirical research. This study uses a juridical empirical approach, with data collection methods through field research and library research. Field research is conducted through interviews with relevant parties, such as investigators at the Teluk Mengkudu Police Station and local community leaders who play a role in mediation. Meanwhile, library research is used to gather secondary data through reviews of literature, legislation, books, journals, and other relevant official documents. Data collection techniques are one of the ways or methods used by researchers to obtain information, facts, or data related to the research. The collected data will be processed and analyzed to provide significant results.

RESULTS AND DISCUSSION

Factors that Cause Abuse to Occur

In general, criminal acts targeting a person's physical being in the Penal Code (KUHP) are known as persecution. The term "persecution" comes from the root word "aniaya," which means acts of torture or treatment that cause physical pain. In the Indonesian Dictionary (KBBI), persecution is defined as arbitrary behavior that can touch someone's feelings or inner self. However, in the context of criminal law, persecution specifically refers to actions that impact the bodily integrity or physicality of a human being.

The elements of crime according to PAF Lamintang argue that every crime contained in the Penal Code is generally described as having 2 (two) types, namely subjective and objective elements. He states that subjective elements are those that are inherent to the perpetrator or relate to the perpetrator and include everything that is contained in their heart. On the other hand, objective elements refer to factors relating to the circumstances under which the perpetrator's actions must be carried out.

Moeljatno stated that a Criminal Act is an act prohibited by a legal rule accompanied by threats or sanctions in the form of a specific penalty imposed on anyone who violates a prohibition. According to him, the elements of a criminal act are:

- a. An act committed by a human;
- b. Prohibited by legal rules;
- c. Criminal threats against anyone who violates the prohibition.

Common assault regulated under Article 351 of the Penal Code is an act of assault that does not fall into the category of severe or minor assault. Essentially, if an act of assault does not meet the criteria for severe or minor assault, it will be categorized as common assault. It is important to note that common assault falls under the category of ordinary crimes, meaning that legal action can be taken without a complaint from the victim. Several factors underlying a perpetrator committing an assault crime can be comprehensively understood through the science of criminology, which is the study of criminal offenders.

The crime of assault is a complex issue influenced by various factors. To address this problem, a comprehensive effort involving multiple parties is needed, ranging from individual improvement, enhancement of social environment quality to effective law enforcement. What needs to be done is:

- a. Improvement of character and moral education from an early age;
- b. Counseling on the importance of managing emotions and resolving conflicts effectively;
- c. Strengthening the role of families in providing education and guidance;
- d. Providing job opportunities and more equitable economic chances;
- e. Strict and fair law enforcement;
- f. Raising public awareness about the dangers of assault.

The phenomenon of bullying behavior is not a new aspect of physical and psychological violence. It can be found anywhere, such as at home or within the family, in public places, or in other locations, and it can happen to anyone when confronted with a problem involving others. The phenomenon of bullying generally occurs due to various factors such as the influence of social interactions and delinquency, violence, social jealousy, pressure, economic inequality, as well as disputes within the family or with others.

The Principle of Restorative Justice in Cases of Violent Crime

According to Muhammad Arif Sahlepi, Ismaidar et al., Restorative Justice is a restoration of relationships and redemption of wrongs that the perpetrators of crime (and their families) wish to undertake towards the victims of the crime, involving their families and authorities as an effort towards reconciliation outside of court, with the intention and goal that the legal issues arising from the criminal act can be resolved properly through agreements and consensus among the parties.

On the other hand, Restorative Justice is also defined as an effort to resolve crimes outside of the judicial system with the aim of repairing the relationship between the offender, the victim, and the losses suffered by the victim, so that this becomes a consideration for the court judge to lighten the criminal sanctions against the offender. Crime itself creates an obligation to restore the damaged relationship resulting from a criminal act. Meanwhile, justice is defined as the process of seeking solutions to problems arising from a criminal incident where the involvement of the victim, the community, and the offender is essential in the efforts for improvement and ensuring the sustainability of such efforts.

Restorative justice is a process and intervention that emphasizes repairing the harm caused by the criminal actions of the perpetrator. Restorative justice emphasizes the foundation of the Indonesian state, which is Pancasila, specifically the fourth principle that states that in decision-making, priority should be given to deliberation or consensus to humanize the judicial system. The term deliberation itself contains five principles consisting of:

- a. Conferencing means meeting to listen to each other and express desires;
- b. Searching Solution means seeking solutions or common ground for the problems being faced;
- c. Reconciliating means making peace with the responsibilities of each party;
- d. Repairing means addressing all consequences that arise; and Circling means supporting each other.

Law enforcement is aimed at enhancing order and legal certainty within society. This is carried out by regulating the functions, duties, and authorities of the institutions responsible for upholding the law in accordance with the appropriate scope of each based on a system of good cooperation and supporting the goals to be achieved. In an effort to realize case resolution through restorative justice, the police, as the gateway to handling cases through investigation mechanisms, have formulated rules or mechanisms for case resolution based on restorative justice through Police Regulation Number 08 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice.

The Implementation of Restorative Justice at the Investigation Stage by the Criminal Investigation Unit of Teluk Mengkudu Police on Ordinary Assault Crimes

Assault is a form of crime that is closely monitored by law because if the offender is proven to have committed an offense, the penalty is criminal punishment regulated by law. The beginning of a series of processes in the criminal justice system is the investigation aimed at finding an answer as to whether a crime has been committed. The preliminary investigation must be carried out by gathering statements, witness testimonies, and sufficient evidence related

to legal interests or criminal law provisions, especially those related to the nature of the criminal incident. When a criminal act meets certain requirements, its case is ready to be prosecuted.

The purpose of conducting an investigation is to impose accountability on investigators so that they do not take legal actions that undermine human dignity and worth. The investigation itself is regulated in Article 1 paragraph 5 of the Code of Criminal Procedure, which means a series of actions taken by the Investigator to seek and find events suspected as criminal acts in order to determine whether an inquiry can or cannot be conducted in accordance with the provisions of the law.

According to Yasmirah Mandasari Saragih, the essential elements of restorative justice are the willingness and involvement of victims, offenders, and the community in repairing criminal acts, which is also a characteristic of customary law. The fulfillment of legal requirements is only a minimal effort at the stage of entering the actual legal process. The fulfillment of the aforementioned elements refers to meeting the conditions or prerequisites necessary to fulfill legal needs and comply with the regulations contained in statutory provisions. The legal requirements referred to are:

- a. The occurrence of a legal event;
- b. The presence of a clear timeline;
- c. The presence of events that contradict the legal rules and provisions in the law;
- d. The occurrence of incidents from the events that happen;
- e. The existence of losses resulting from the actions of others;
- f. The presence of causes or elements of loss, due to certain criminal events;
- g. The existence of specific regulations that have been violated.

From the events that have occurred, information can be obtained through careful investigation and inquiry efforts conducted by investigators and examiners. According to the legislation, investigation is the initial step in determining whether the event actually occurred or not.

Investigators are institutions that, by the provisions of legislation, are given the authority to carry out investigations into events suspected to be criminal acts. Based on Article 1, paragraph 4 of the Criminal Procedure Code, what is meant by investigators is an official of the police force of the Republic of Indonesia who is granted authority by this law to conduct investigations. Investigations are carried out by officials of the police force of the Republic of Indonesia who are empowered by the law and have functions and authorities as stipulated in Article 5 of the Criminal Procedure Code.

Investigation and inquiry are two phases of action that form a single entity. They are interconnected and complement each other to resolve the examination of a criminal incident. The purpose of conducting an investigation is to find initial evidence from the perpetrator. Meanwhile, the inquiry, as emphasized, is a series of actions taken by the investigating officer in accordance with the provisions set out in the law to seek and collect evidence. Because the existence of evidence will clarify the criminal act that has occurred while also identifying the suspect or the perpetrator of the crime.

Restorative justice is a way of addressing a violation or crime through discussion and reconciliation between the victim and the perpetrator. In addition to law enforcement officials, families and communities are also required to take part in reconciling both parties. Restorative

justice or restorative fairness is regulated in the Regulation of the National Police of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. There are several types of offenses, one of which is assault, which is found in Article 351 of the Penal Code.

Efforts to combat crime have been made by all parties, both the government and society in general. This is a real threat or a threat to the social norms that underpin life or social order, which can create individual tensions or social tensions and is a real or potential threat to the continuation of social order. Efforts to combat criminal acts are not easy and cannot be done quickly, as they involve people as subjects of the crime. The ultimate goal and primary objective of law enforcement against the mitigation of the crime of abuse is to protect the community in order to achieve public welfare. According to Article 13 of Law of the Republic of Indonesia Number 2 of 2002 on the Indonesian National Police, the main duties of the Police are:

- a. Enforcing the law;
- b. Maintaining security and public order;
- c. Providing services, protection, and guidance to the community.

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