

RESTORATIVE JUSTICE FOR SETTLEMENT OF MINOR MALTRAETMENT IN THE LEGAL AREA OF THE MERANGIN POLICE, JAMBI PROVINCE

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Abstract: The aim of this research is to analyze the implementation of restorative justice in resolving minor cases of maltreatment. By emphasizing the utilization of restorative justice, the resolution of these cases occurs outside the courtroom, focusing on restoring the well-being of the victim and facilitating mutual forgiveness between the victim and the perpetrator. The implementation of restorative justice in this context is guided by the Republic of Indonesia National Police Regulation Number 8 of 2021. To conduct this research, empirical juridical methods were employed, and field data collection techniques were utilized, including primary data gathered through interviews with the Head of Bareskrim and the parties involved. Additionally, secondary data in the form of documentation, annual reports, and relevant research journals were collected. The results showed that the settlement of minor crimes in restorative justice had been carried out by the applicable Police Chief Regulations. Second, the obstacles encountered during the settlement process did not hinder investigators from successfully implementing restorative justice within the jurisdiction of the Merangin Police.

Keywords: Crime, Persecution, Settlement, Restorative Justice

Abstrak: Tujuan dari penelitian ini adalah untuk menganalisis implementasi *restorative justice* dalam menyelesaikan kasus penganiayaan ringan. Dengan menekankan pada pemanfaatan *restorative justice*, penyelesaian kasus-kasus tersebut terjadi di luar ruang sidang, dengan fokus pada pemulihan kesejahteraan korban dan memfasilitasi saling memaafkan antara korban dan pelaku. Pelaksanaan *restorative justice* dalam konteks ini berpedoman pada Peraturan Kepolisian Negara Republik Indonesia Nomor 8 Tahun 2021. Untuk melakukan penelitian ini, digunakan metode yuridis empiris, dan teknik pengumpulan data lapangan, termasuk data primer yang dikumpulkan melalui wawancara dengan Kepala Bareskrim dan pihak terkait. Selain itu, data sekunder berupa dokumentasi,

laporan tahunan, dan jurnal penelitian yang relevan dikumpulkan. Hasil penelitian menunjukkan bahwa penyelesaian tindak pidana ringan dalam *restorative justice* telah dilaksanakan dengan Peraturan Kapolri yang berlaku. Kedua, kendala yang dihadapi selama proses penyelesaian tidak menghalangi penyidik untuk berhasil menerapkan *restorative justice* di wilayah hukum Polres Merangin.

Kata Kunci: Kejahatan, Penganiayaan, Penyelesaian, *Restorative Justice*

Introduction

The State Police of the Republic of Indonesia is committed to achieving the resolution of criminal acts by giving priority to restorative justice principles in the preamble of the Republic of Indonesia State Police Regulation Number 8 of 2021, regarding the handling of cases through restorative justice. This approach emphasizes restoring the original state and ensuring a balance between the protection of victims and the interests of the perpetrators, rather than solely focusing on punishment.¹

Restorative justice is a crime settlement involving perpetrators, victims, perpetrators and victims' families, community leaders, religious leaders, traditional leaders, or stakeholders to jointly seek a solution through peace by emphasizing restoration to its original state.²

According to Tony Marshall in Marlina, restorative justice involves all parties who have an interest in certain violations to collectively resolve how to address and settle the consequences of violations and their implications.³ Purwadi Arianto defined the concept as a legal system that aims to restore the welfare of victims, perpetrators, and

communities damaged by crime, and prevent violations or criminal acts.⁴

According to the Restorative Justice Consortium, restorative justice is defined as a process aimed at resolving conflicts and repairing the harm caused. It promotes an environment where individuals who have caused harm are encouraged to recognize the impact of their actions and take responsibility by making amends. Simultaneously, it provides an opportunity for those who have suffered harm to acknowledge their loss and engage in a transformative process of healing and change.

Restorative justice is a process in which all parties involved in a particular crime jointly solve the problem of how to deal with the consequences in the future. From the viewpoint of restorative justice, crime constitutes a transgression against both individuals and the interconnections between them. Criminal activity engenders a responsibility to enhance circumstances by engaging victims, offenders, and society in the collective pursuit of remedies to restore, reconcile, and foster harmony.

The requirements for restorative justice

¹ Regulation of the Head of the National Police of the Republic of Indonesia Number 8 of 2021, "Amendments to the Regulation of the Head of the National Police of the Republic of Indonesia Number 1 of 2019 Concerning the System, Management and Standards for Successful Operations of the Indonesian National Police," Republic of Indonesia, 2021, <http://www.ufrgs.br/actavet/31-1/artigo552.pdf>.

² Regulation of the Head of the National Police of the Republic of Indonesia Number 8 of 2021. Article 1.

³ Marlina, *Pengantar Konsep Diversi dan Restorative Justice dalam Hukum Pidana*, Medan: USU Press. 2010., p. 31.

⁴ Purwadi Arianto, *Pendekatan Restorative Justice dalam Upaya Penegakan Hukum oleh POLRI (Studi dalam Penerapan Hukum Pidana)*. Semarang: Polda Jateng 2013, p. 75.

are regulated in Article 3 of the Regulation of the State Police of the Republic of Indonesia Number 8 of 2021, where the handling of criminal acts as referred to in Article 2 must meet the requirements as General, and/or Special.⁵

Restorative justice is related to the problem of persecution. Regarding the concept of persecution within the realm of criminality, the Criminal Code (KUHP) does not explicitly define or articulate the specific elements that encompass this offense. However, according to the jurisprudence of the court, persecution is Deliberately causing bad feelings (suffering), pain, and injury.⁶ The provisions on persecution in the Criminal Code (KUHP) are stipulated in Articles 351 to 361 of the said legal framework. These articles serve as the legal foundation for understanding and addressing the crime of persecution.

After examining the constituent elements outlined in Article 351 of the Criminal Code, the offense of obscenity encompasses several aspects. These include the presence of intent, the commission of a specific action, and the resulting outcome, which entails causing physical discomfort and displeasure.

To address the evolving legal requirements of society and ensure a fair approach, the Indonesian National Police has been granted authority under Articles 16 and 18 of Law Number 2 of 2002 concerning the Indonesian National Police. Consequently, it becomes imperative to devise a new concept in the realm of law enforcement that aligns with these provisions.

The Regulation of the State Police of the Republic of Indonesia Number 8 of 2021, focused on the Handling of Cases Based on

restorative justice, elucidates in Article 2 that the process of addressing crimes through restorative justice principles is incorporated within the activities encompassing the functions of Criminal Investigation, or Inquiry.

Regarding the material requirements stated in Article 5 of the Republic of Indonesia Police Regulation Number 8 of 2021, the material requirements, as mentioned in Article 4, letter a, encompass the following criteria:

1. The act does not generate anxiety and/or rejection from the community.
2. The act does not lead to social conflicts.
3. The act does not possess the potential to divide the nation.
4. The act is not associated with radicalism or separatism.
5. The perpetrator is not a repeat offender based on a court decision.
6. The act is not categorized as a criminal act of terrorism, against state security, corruption, or people's lives.⁷

Considering the material requirements outlined in Article 5 of the Republic of Indonesia National Police Regulation Number 8 of 2021, only minor maltreatment crimes would satisfy these criteria. However, restorative justice cannot be applied to cases of maltreatment that lead to lifelong disability or death since these acts tend to evoke anxiety or rejection from the community. Restorative justice may not be suitable for offenses of this nature due to their severe impact and societal implications.⁸

Regarding the formal requirements stipulated in Article 6 of the Republic of Indonesia National Police Regulation

⁵ Regulation of the Head of the National Police of the Republic of Indonesia Number 8 of 2021, Article 3.

⁶ Raden Soesilo, *Kitab Undang-undang Hukum Pidana (K.U.H.P.) serta Komentar-komentarnya Lengkap Pasal demi Pasal*, Bogor: Politeia, 2010, p. 245.

⁷ Regulation of the Head of the National Police of the Republic of Indonesia Number 8 of 2021, Article 5.

⁸ Regulation of the Head of the National Police of the Republic of Indonesia Number 8 of 2021, Article 5.

Number 8 of 2021, some of the key provisions include:

- (1) The formal requirements as referred to in Article 4 letter b include:
 - a. Peace from both sides, except for Drug Crimes; and
 - b. Fulfillment of victims' rights and obligations of perpetrators, except for drug crimes.
- (2) Peace as referred to in paragraph (1) letter a, is evidenced by an agreement signed by the parties.
- (3) Fulfillment of victims' rights and obligations of perpetrators as referred to in paragraph (1) letter b, can be in the form of:
 - a. return goods,
 - b. Indemnify,
 - c. Replacing costs incurred as a result of a crime,
 - d. Make up for the loss caused by the crime.
- (4) The fulfillment of the rights referred to in paragraph (3) is proven by a statement following an agreement signed by the victim.

Regarding the special requirements as stipulated in the Regulation of the State Police of the Republic of Indonesia Number 8 of 2021, where in Article 7 it is explained: The special requirements as referred to in Article 3 paragraph (1) letter b, are additional requirements for Crime:

- a. Electronic information and transactions;
- b. Drugs; and
- c. Traffic.⁹

According to Tony F. Marshall in Antoni Hasan, "Restorative justice is a process in which all parties with an interest in certain violations come together to resolve collectively how to deal with the consequences of violations and their implications for the future". (Restorative justice is a process in which all parties with an interest in a particular violation meet together to resolve together how to resolve the consequences of the violation for the benefit of the future).¹⁰

The notion entails a settlement procedure conducted external to the realm of the criminal justice system, which incorporates victims, perpetrators, families of victims and perpetrators, the general public, and individuals with a vested interest in a committed crime. The purpose is to attain consensus and resolution through an agreement and settlement.¹¹ Restorative justice is a settlement that involves the perpetrator, victim, family, and other parties, jointly seeking a solution to the crime and its implications, emphasizing recovery and not retaliation.¹²

The basic idea of alternative settlements in criminal cases is related to the nature of criminal law as explained by Van Bemmelen in Andi Hamzah. Criminal law is an ultimatum medium with restrictions, meaning that other parts are not sufficient¹³ and the threat of punishment must remain an ultimatum medium (last drug).¹⁴ This does not imply the elimination of the penalty and

⁹ Regulation of the Head of the National Police of the Republic of Indonesia Number 8 of 2021.

¹⁰ Sahuri Lasmadi, Ratna Kumala Sari, and Hari Sutra Disemadi, "Restorative Justice Approach as an Alternative Companion to the Criminal Justice System in Indonesia," *ATLANTIS: Advances in Economic, Business and Management Research* 140, no. 1 (2020): 206-9, <https://doi.org/10.2991/aebmr.k.200513.044>.

¹¹ Iman Faturrahman and Bambang Tri Bawono, "Application of Restorative Justice as a Traffic

Accident Solution," *Journal of Daulat Hukum* 4, no. 1 (2021): 27, <https://doi.org/10.30659/jdh.v4i1.13881>.

¹² Rudini Hasyim; Rado and Nurul Badilla, "The Concept of Restorative Justice in the Integrated Criminal Justice System," *Journal of Restorative Justice* 3, no. 2 (2019): 145-59.

¹³ Rado and Badila.

¹⁴ Virginia Garcia, "Enforcing Restorative Justice in Indonesian Criminal Law," *Legality: Scientific Journal of Law* 28, no. 1 (2020): 22-35, <https://doi.org/10.22219/ljih.v28i1.10680>.

it is crucial to conscientiously assess the merits and drawbacks of its implementation. An individual must exercise caution to avoid administering a remedy that may prove more detrimental than the ailment.¹⁵

According to Moeljatno, "criminal law is included in the category of public law, namely the relationship between the state and individuals or the public interest".¹⁶ Andi Zainal Abidin expressed an alternative viewpoint stating that the majority of these principles pertain to public law, while some encompass both public and private law.¹⁷ These principles are accompanied by distinctive penalties that surpass those found in other legal domains, thereby functioning independently. Additionally, at times, new regulations are enacted that possess a distinct nature and objective compared to the existing legal norms.¹⁸

The administration of justice in the criminal justice process is based on Law Number 8 of 1981 concerning Criminal Procedure Law. The criminal justice process, as delineated in the Criminal Procedure Code, shows a pronounced emphasis on individuals responsible for committing criminal acts. Throughout the progression from suspect to conviction, the rights of suspects and defendants are diligently safeguarded under the provisions of the Criminal Procedure Code. Consequently, the criminal justice process exhibits a perpetrator-oriented or offender-minded approach. Due to this significant focus on the well-being of criminal offenders, the interests

of victims are not adequately addressed within the framework of the Criminal Procedure Code.¹⁹

Based on the provisions contained in the current criminal procedure law, all criminal cases must be processed in the criminal justice system. Article 1 number 6 letter or Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHP) states that a prosecutor is an official authorized to act as a public prosecutor and carry out court decisions that have obtained the power of permanent law.

Article 1, number 6, letter b of the Criminal Procedure Code designates the Public Prosecutor as an authorized prosecutor responsible for prosecuting cases and executing judicial decisions. The provisions outlined in Article 1, number 6, letter b of the Criminal Procedure Code are equivalent or replicated in Article 13 of the same code.

Based on the data acquired from the jurisdiction of the Merangin Police, concerning instances of persecution following the enactment of Republic of Indonesia National Police Regulation Number 8 of 2021, there were eight reported cases. Among these cases, seven were effectively resolved through restorative justice measures. However, one case encountered challenges that hindered a successful resolution through restorative justice. These obstacles stemmed from both the perpetrator and the victim's family.

Out of the seven cases effectively resolved

¹⁵ Eva Achjani Zulfa, "Implementation of Restorative Justice Principles in Indonesia: A Review," *International Journal of Science and Society* 2, no. 2 (2020): 317-27, <https://doi.org/10.54783/ijssoc.v2i2.161>.

¹⁶ Moeljatno, *Dasar-dasar Hukum Pidana*, Eighth Printing, Jakarta: Renika Cipta, 2016. p.2

¹⁷ Harmain, I., Abdi Prawira, I., & Zulpadli, R. (2023), "Analysis of Decision Number. 6/Pid.Sus-Anak/2018/PT Jmb Concerning Criminal Sanctions Against the Crime of Abortion from a

Positive Legal Perspective and Islamic Law," *Legalite: Journal of Legislation and Islamic Criminal Law*, 8(1),40-57.

<https://doi.org/10.32505/legalite.v8i1.5109>

¹⁸ Andi Zainal Abidin Farid, *Hukum Pidana I*, Second Printing, Jakarta: Sinar Graph, 20017, p.13

¹⁹ Safaruddin Harefa, "Law Enforcement Against Crime in Indonesia Through Positive Criminal Law and Islamic Criminal Law", *Journal of Law*, University of Bengkulu 4, no. 1 (2019): 35-58, <https://doi.org/10.33369/ubelaj.v4i1.7303>.

through restorative justice, only one case garnered significant public attention due to its unique nature. Additionally, the settlement process for this particular case was arduous and protracted, demanding considerable time and effort. The case involved an individual named Alias BE Bin J, a 47-year-old male Indonesian citizen who identifies as Muslim. He attained his last formal education at the senior high school level (SLTA) and works as an entrepreneur. The residential address is RT.10/04, Parak Kelapo, Pasar Bawah, Bangko, Merangin.

After the reception of the report, it was subjected to due processing. Subsequently, the party responsible was summoned by the complainant to extend a formal apology. The reported party composed a written letter where they expressed remorse and vowed to refrain from engaging in similar actions. Furthermore, they demonstrated their willingness to contribute towards the victim's medical expenses.

A restorative justice approach was adopted following the receipt of the conciliation letter involving the Merangin Police, the reported party, and the complainant. As part of this process, the Merangin Police took proactive measures to facilitate a reconciliation between the reported and complainant parties. They diligently inquired about the attainment of peace and ensured that a peace agreement was duly signed. The agreement was acknowledged by the local RT head and attested by witnesses. Furthermore, the police solely resolved cases of persecution, as evident from the peace certificate. The writer

expressed a keen interest in conducting extensive research on the application of restorative justice in resolving persecution cases within the legal jurisdiction of the Merangin Police.

Method

The research was conducted utilizing empirical juridical research to analyze the practical application of these legal rules.²⁰ In this case, the laws and regulations are related to the restorative justice policy and the application of the restorative justice approach in law enforcement practices of the crime of abuse in the legal area of the Merangin Police. Empirical juridical research is taken as the main approach because the concern is how to apply restorative justice in solving cases of abuse in the jurisdiction of the Merangin Police.

Results and Discussion

Application of Restorative Justice in Completion of Criminal Acts of Persecution in the Legal Area of the Merangin Police

Restorative justice is a process exclusively executed by law enforcement officials under the objectives outlined by the community.²¹ Therefore, it must be truly fair and aimed at preventing the recurrence of criminal acts. This makes justice a matter of full consideration in addressing crime and avoiding stigmatization.²² Therefore, there is a need to carry out a monitoring mechanism in society regarding the implementation of the final result of completing a crime.²³

²⁰ Mukti Fajar ND and Yulianto Achmad, *Dualisme Penelitian Hukum: Normatif & Empiris*, Pustaka Pelajar, Yogyakarta, 2010, p. 34.

²¹ Zulfa, "Implementation of the Principles of Restorative Justice in Indonesia: An Overview."

²² Ragil Tri Wibowo, "Restorative Justice in Application for Crime Investigation on Property,"

Journal of Daulat Hukum 1, no. 2 (2018): 565, <https://doi.org/10.30659/jdh.v1i2.3335>.

²³ Ali Sodikin, "Restorative Justice in Homicide: Perspectives on Indonesian Criminal Law and Islamic Criminal Law. The Early Resolution of Crime Problems in Indonesia Has Been Regulated In Formal Procedure Instruments That Have Been

According to W. Tommy Watuliu, Head of Unit IV/Special Criminal Investigation Detachment of Polda Metro Jaya) and Atang Setiawan (Staff of Unit IV/Detachment of Cybercriminal Criminal Special Bareskrim Polda Metro Jaya) as quoted by Marlina mentioned restorative justice as an effort to seek conflict resolution in a peace out of court.²⁴

Based on the provisions outlined in the Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Criminal Acts, Article 1, number (3) explicitly elucidates that the implementation of restorative justice in criminal cases necessitates the active involvement and collaboration of multiple stakeholders. This collaborative effort includes the participation of perpetrators, victims, perpetrators' families, victims' families, community leaders, religious leaders, traditional leaders, and relevant stakeholders. They strive towards achieving a settlement by placing utmost importance on restoring the situation to its original state through peaceful means.²⁵

The issue of implementing restorative justice in addressing criminal acts of persecution within the Merangin Police Legal Area was discussed by the Head of the Merangin Police Criminal Investigation Unit. During the discussion, the challenges encountered in the implementation process, as well as the parties involved in the resolution, were thoroughly examined. The representatives from the Polres (Police Resort) and the individuals who reported the problems were allowed to present their statements, share experiences, and provide

perspectives during the hearing and questioning session.²⁶

According to the Pidum Kapolres Merangin, the stages of the process of resolving cases in restorative justice includes:

1. Opening and introduction of the Criminal Investigation Unit
2. Case presentation from the head of the Pidum Unit.
3. Listening to the opinions of the reporting party and the reported party
4. Examination of proof of peace from the parties
5. Suggestions and opinions from the participants who attended.
6. Listening to expert opinions.
7. Decisions from case settlement results in restorative justice.
8. Documentation of peace between the reporter and the reported party.²⁷

How to complete restorative justice in cases of abuse at the Merangin Police, can be seen in the following explanation below:

Early Stages of Restorative Justice

During the initial phases of implementing restorative justice, a significant role is assigned to Bareskrim (Criminal Investigation Agency) as the presiding entity in the trial process. Bareskrim is granted the first opportunity to guide on the crucial matters to be addressed regarding the criminal acts. This includes identifying the specific articles that have been violated and determining whether the reported perpetrator's crimes are suitable for resolution through restorative justice. Following the commencement of the session

Defined By The State. Arrange," *Asy-Syir'ah: Journal of Syari'ah Science and Law* 49, no.1 (2015): 65.

²⁴ Marlina, Introduction to the concepts..., p. 33.

²⁵ Femmy Silaswaty Faried, Hadi Mahmud, and Suparwi Suparwi, "Mainstreaming Restorative Justice in Stopping Prosecution in Indonesia," *Journal of Human Rights, Culture and the Legal System*

2, no. 1 (2022): 66-77, <https://doi.org/10.53955/jhcls.v2i1.31>.

²⁶ Lumbrian Hayudi Putra, Head of the Criminal Investigation unit of the Merangin Police, Interview with the author 7 November 2022.

²⁷ Didik Sadikin, Head of the Merangin Police Piedum Unit, Interview Writer 7 November 2022.

and the provision of necessary directions, the Head of Bareskrim proceeds to elucidate the issues under consideration and the challenges being addressed concerning the restorative justice approach.

Case Presentation from Head of Pidum Unit

In this presentation, Bareskrim provided a comprehensive overview of the handling of the cases, beginning with the chronological sequence of events, testimonies from witnesses, expert statements, and the evidence acquired, culminating in a conclusive analysis.

Based on the outcomes of the presentation delivered by the Head of the Criminal Investigation Unit, the reporter, acting on behalf of Roni Irawan, also known as Bujang Edo Bin Jamaludin, engaged in misconduct towards the victim, Yulizar. Consequently, due to the persecution carried out by Roni Irawan, the victim, who is a reporter, sustained injuries, and the defendant's actions fall under the purview of Article 352 of the Criminal Code. Following the elucidation of the case, the Head of Bareskrim, serving as the presiding official, facilitated a restorative justice session, allowing both the reporter and the reported parties an opportunity to express their perspectives.

Description of Reporting Party and Reported Party

In the restorative justice process of resolving cases, one of the crucial aspects is attentively considering the perspectives of the affected parties, encompassing both the victim and the reported individual.

During the initial session, the Head of the Criminal Investigation Unit, assuming the role of the meeting's leader, provided the victim with the opportunity to articulate the

challenges encountered, including whether they possessed a genuine willingness to address the issue through the restorative justice approach.

From interviews with journalists whose cases have been resolved through restorative justice, Mr. Yulizar explained:

"I asked 'who are your children' and the man told me 'I am taci's daughter-in-Law' because I knew him, during the conversation the reported slapped and spat on the complainant, and as a result of the reported slap, my cheeks turned blue. Due to this incident, I reported the incident to the police."²⁸

From the results of interviews with the reporter of the persecution case, Roni Irawan alias Bujang Edo Bin Jamaludin explained:

"Following the persecution perpetrated against Yulizar, he eventually filed a police report against me. Subsequently, the report was duly processed, leading to summonses being issued to both myself and the reporter. I expressed my remorse and commitment to refrain from repeating such actions. Furthermore, I pledged to assist in covering all of Yulizar's medical expenses as a means of reparation."²⁹

Examination of Proof of Peace from the Parties

An examination of the evidence utilized in the facilitation of restorative justice between the victim and the perpetrator of sexual abuse took place. During the proceedings, the Head of the Merangin Criminal Investigation Unit presided over as the trial chairman. As part of the evidence presented, a letter of reconciliation between the perpetrator (as reported) and the reporter was submitted, and authenticated by a stamped paper. Is it established whether the peace certificate has been acknowledged by the Village Head/RT and local community

²⁸ Yulizar, Victim/Reporter of Cases of Persecution, Interview with Author 10 November 2022

²⁹ Roni Irawan alias Bujang Edo, Perpetrator/Report on Case of Persecution Against Yulizar, Author of Interview 10 November 2022.

leaders? Additionally, a statement letter from the perpetrator was submitted, affirming their commitment to refrain from engaging in similar acts against the complainant (victim) and others. A letter of complaint withdrawal was provided by the complainant, indicating that the complaint had been retracted due to the reconciliation and mutual agreement between the victim and perpetrator, deeming the case resolved amicably.

Participants' Suggestions and Opinions

After Bareskrim has submitted or delivered the results of the investigation and inquiry, the involved parties, namely the Rapporteur and the Reported Party, have expressed their viewpoints. They also presented a letter of conciliation and a statement from the Reported Party, expressing their commitment to refrain from pursuing actions. Additionally, a letter of revocation of the complaint report has been prepared and thoroughly examined for accuracy and validity. Subsequently, the Head of the Criminal Investigation Unit has provided an opportunity for all present participants, including the invited criminal experts and units from the Merangin Police, to express their opinions regarding the appropriateness of applying restorative justice. This step carries significant importance as the decision on whether to proceed with restorative justice is based on a majority vote or consensus among the attending officials. Furthermore, when a majority of participants in the meeting reach a consensus that the case should be resolved through restorative justice, their agreement becomes the pivotal factor in determining the approach taken for settling the case.

Expert Opinion

To ensure the accuracy and appropriateness of decisions made by the Police regarding restorative justice settlements, Bareskrim

incorporates the involvement of Criminal Experts. These experts serve as a crucial resource for assessing the feasibility of handling cases through restorative justice before any final decisions are made. Bareskrim seeks legal opinions from these experts to determine whether the settlement of cases through restorative justice is viable. Therefore, the reported case by Yulizar has demonstrated its complexity, necessitating a comprehensive examination to fully understand its intricacies.

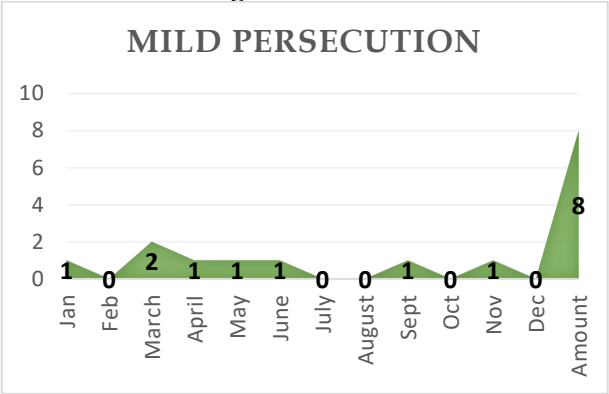
Decisions from Case Settlement Results in Restorative Justice

The Chairman of Bareskrim, acting as the head of the restorative justice settlement meeting, reiterated the inquiry to both parties involved, namely the complainant (victim) and the reported (perpetrator), to ascertain whether their agreement was voluntarily reached or coerced. Furthermore, the reconciliation letter was created on official stamped paper and acknowledged by the respective Head of the RT or Village apparatus. It is crucial to ascertain when the reported party has provided a statement expressing their commitment to abstain from repeating their actions against the victim or any other party. The Head of the Criminal Investigation Unit will decide on the feasibility of implementing restorative justice to resolve the issue when these steps have been undertaken and properly addressed, with the involvement and awareness of the village head, RT head, and community leaders.

Once a decision has been reached, both parties are encouraged to come forward and assume their positions in the forefront to engage in a handshake. This is duly documented as evidence of the successful resolution of the abuse case through the implementation of restorative justice.

Based on the acquired data on minor maltreatment cases reported to the Merangin Police Station within the past year (specifically in 2022), there have been a total of approximately eight (8) cases, as shown in Table 1.

Table 1. Mild Maltreatment Case Enters Merangin Police in 2022



Data Source: Merangin Police November 2022

Out of the total eight cases of minor maltreatment reported to the Merangin Police, seven were effectively resolved through the application of restorative justice, as shown in Table 2.

Table 2. Minor Abuse Cases Settled in Restorative Justice (RJ) 2022

Mild Persecution	
January	Rj
February	-
March	Rj
April	Rj
May	Rj
June	Carry on
July	-
August	-
September	Rj
October	-
November	Rj
December	-

Data Source: Merangin Police November 2022

Out of the total of eight recorded cases of minor maltreatment in 2022, it is important to highlight that seven were successfully resolved through restorative justice under the

Republic of Indonesia National Police Regulation Number 8 of 2021. However, one case that occurred in June 2022 could not be resolved through restorative justice due to several obstacles. These obstacles include the absence of a mutual agreement or meeting point concerning the amount of compensation requested by the victim or their family. The requested amount was high for the perpetrator to fulfill, leading to the case being transferred to court for further proceedings.

Documentation of Peace Between the Rapporteur and the Reported Party

The documentation of the outcomes resulting from restorative justice settlements represents a conclusive series of resolutions. The primary purpose of documenting the achieved peace is to provide evidence that restorative justice was implemented in the given case, ensuring the absence of coercion from any involved parties, including the victim and the perpetrator.

The documentation of peace between the complainant and the reported party can take different forms. It may involve the creation and handling of a peace letter, a statement from the perpetrator expressing their commitment to refrain from repeating their mistakes, or even a photograph capturing the moment when the reporter and the reported/perpetrator engage in a handshake. These measures are implemented to address any potential incidents where the matter might be brought up again. The documentation is based on the existing records and can be challenged or contested when necessary.

Problems with the Implementation of Restoration and the Efforts Made in the Legal Area of the Merangin Police

Under Soerjono Soekanto's viewpoint, the implementation of law enforcement, inclusive of restorative justice, is subject to

various influencing factors such as legal aspects, law enforcement factors, supportive infrastructure, community dynamics, and cultural considerations.³⁰

The aforementioned five factors, as outlined above, can present challenges in the enforcement of criminal law, particularly when it comes to the implementation of restorative justice in cases of abuse within the jurisdiction of the Merangin Police, as observed in the following description below:

1. Legal Factors

Regarding the legal factor, is it an obstacle in law enforcement against minor crimes that are resolved through restorative justice?. This can be seen in the provisions of Article 4 of the Republic of Indonesia National Police Regulation Number 8 of 2021. In PERKAP Number 8 of 2021, it is stated that in the settlement of criminal acts in restorative justice, the following conditions must be considered, including materials and Official.

As outlined in the provisions of Article 5 of the Republic of Indonesia Police Regulation Number 8 of 2021, the material requirements, as stated in Article 4, encompass the following aspects:

- a. The proposed initiative should not evoke anxiety and/or rejection from the community.
- b. The initiative should have no impact on social conflict.
- c. It must not possess the potential to divide the nation.
- d. The proposal should not be associated with radicalism and separatism.
- e. The applicant should not be a repeat offender based on a court decision.

After examining the case resolved by the Merangin Police pertaining to the abuse

committed by the perpetrator, Roni Irawan alias Bujang Edo Bin Jamaludin, against the victim, Yulizar, who is a reporter, it was found that the victim suffered slight injuries due to the persecution inflicted by Roni Irawan. According to the Head of Bareskrim Merangin, no hindrances were encountered during the completion of restorative justice, and this can be attributed to the following reasons:

- a. The cases did not cause anxiety or rejection from the public, specifically the reporter and the reported party.
- b. Does not have an impact on social conflict, where in this case there is no conflict between the perpetrators and the victims.
- c. Does not have the potential to divide the nation, meaning there are no conflicts with the potential to divide both parties.
- d. There is no radicalism and separatism in nature since the case is only a matter of misdemeanors.
- e. The reported individual has not been convicted or sentenced by a court, indicating that they are not a repeat offender.³¹

Regarding the formal requirements as stated in Article 6 of the Republic of Indonesia National Police Regulation Number 8 of 2021, among others:

- (1) The formal requirements as referred to in Article 4 letter b include:
Peace from both sides, except for Drug Crimes, and fulfilling the rights of victims and obligations of perpetrators.
- (2) Peace as referred to in paragraph (1) letter a, is evidenced by a peace agreement signed by the parties.
- (3) Fulfillment of the victim's rights and the perpetrator's obligations as referred to in paragraph (1) letter b, can be in the form of returning goods, indemnifying,

³⁰ Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, Sinar Graph, Jakarta, 2011, pp. 5-6.

³¹ Lumbrian Hayudi Putra, Head of Criminal Investigation Unit of the Merangin Police, Interview 7 November 2022.

Replacing costs incurred as a result of a crime, and compensating for losses caused by crime.

- (4) The fulfillment of the rights referred to in paragraph (3) is proven by a statement following an agreement signed by the victim.

Following the formal requirements highlighted during interviews with community leaders in Merangin Regency, Mr. Bahtiar Ali expressed satisfaction and contentment with the resolution of the case involving the incident of minor sexual abuse inflicted by Roni Irawan Alias Bujang Edo Bin Jamaludin on the victim, Yulizar, who is a reporter. The Merangin Police successfully facilitated restorative justice, resulting in an amicable agreement between the victim and the perpetrator, where both parties have relinquished any further claims against each other.³²

2. Law Enforcement Factor

To ascertain whether law enforcement factors present any hindrance in implementing restorative justice at the Merangin Police, an interview was conducted with the Bareskrim of the Merangin Police. According to the explanation provided, there have been no obstacles encountered in utilizing restorative justice for case resolution at the Merangin Police. It was highlighted that every member involved is actively engaged and consistently present, showing their commitment to resolving cases through the restorative justice approach.³³

3. Facility Factors or Facilities that Support Law Enforcement

Regarding the means and convenience of implementing law enforcement in cases of persecution through restorative justice, the interview with the Head of the Criminal

Investigation Unit at the Merangin Police discusses the issue. According to the explanation provided, there are no obstacles in terms of guidance or facilities when resolving cases using restorative justice. The implementation takes place in a dedicated meeting room well-equipped with a chairperson's table, tables and chairs for the invited participants, whiteboards, InFocus equipment, chairs, and air conditioning. These facilities not only eliminate any hindrances but also ensure a comfortable environment for all participants involved in the process.

4. Community Factor

The role of the community in law enforcement is undeniably crucial, particularly in implementing laws and regulations. The community's participation plays a decisive role in the enforcement process. For instance, the enforcement of a newly passed criminal law requires the cooperation and acceptance of society, necessitating a probationary period of three years. This is due to the presence of certain segments within the community who object to specific articles within the New Criminal Code.

Regarding the community factors that impede law enforcement in resolving criminal cases through restorative justice, the interview with the Head of the Criminal Investigation Unit at the Merangin Police discusses the issue. The obstacles encountered in resolving criminal acts primarily involve individuals who hinder the resolution process by demanding exorbitant medical expenses or compensation from the reported party. These demands impose an excessive burden on the reported party, rendering the desired peace efforts unattainable. Consequently, the cases have to be resolved through the judicial process.

³² Bahtiar Ali, Community Leader of Merangin Regency, Interview 11 November 2022.

³³ Lumbrian Hayudi Putra, Head of the Criminal Investigation unit of the Merangin Police, Interview with the author 7 November 2022.

5. Cultural Factors

Cultural factors also pose obstacles in enforcing the law regarding cases of persecution resolved through restorative justice. It has become a cultural norm within the community that when a family experiences adversity, other members often intervene in the settlement process. Some individuals hinder the successful resolution of cases through restorative justice, as they perceive the compensation or medical expenses provided by the reported party as inadequate. Consequently, the desired peace between the complainant and the reported party cannot be achieved.

Efforts have been made to address the challenges in the settlement within the jurisdiction of the Merangin Police. Based on the research, out of the five factors influencing law enforcement, only two, namely Community and Cultural Factors, emerge as significant problems in the resolution of restorative justice cases. This highlights the need for targeted measures and strategies to overcome these challenges in enhancing the effectiveness of restorative justice.

Efforts made on these 2 (two) factors include: (a) community factor, there are still parties that hinder the completion of restorative justice carried out by the Merangin Police, specifically the family, such as asking for high medical expenses or compensation for the perpetrator. This becomes burdensome to the reported, hence preventing the desired peace; and (b) from cultural factors, in Merangin Regency, it has become a cultural practice or tradition among the people that when one family faces a disaster, others often step in to assist in resolving the issue. In some cases, certain individuals hinder the resolution process through restorative justice, objecting to the

compensation or medical expenses provided by the reported party. This situation can prevent the successful settlement of cases using restorative justice.

To address the two identified obstacles in law enforcement against perpetrators of abuse in the jurisdiction of the Merangin Police, efforts have been made to overcome these challenges. According to the interview with the Head of the Criminal Investigation Unit of the Merangin Police, one of the initiatives taken is to provide legal counseling to the community to enhance their understanding and legal awareness. This can contribute to a more cooperative and receptive environment for restorative justice processes, facilitating successful resolutions of cases and promoting peaceful outcomes.³⁴

Conclusion

In conclusion, the application of restorative justice in the settlement of criminal acts of persecution in the jurisdiction of the Merangin Police was carried out in 2022. Out of the 8 cases submitted, it was determined that 7 involved instances of abuse. The Merangin Polsek successfully resolved these cases through restorative justice. However, during the completion of the process, certain problems arose. The problems with the implementation of restorative practices in solving cases of abuse included social and cultural factors. Efforts were made to overcome these obstacles by the Marangin Police, who conducted legal counseling sessions with the community. Furthermore, special attention was given to the issue of restorative justice, aiming to enhance the community's insight and understanding. These initiatives contributed to the comprehension and awareness of restorative justice.

³⁴ Lumbrian Hayudi Putra, Head of the Criminal Investigation unit of the Merangin Police, Interview with the author 7 November 2022.

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