

Effectiveness of The Implementation of Restorative Justice in The Settlement of Criminal Cases in The Jurisdiction of Serang Police, Banten

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Abstract. *The application of Restorative Justice as an alternative to resolving criminal cases has been explicitly regulated in the Regulation of the Chief of Police Number 8 of 2021 concerning Handling of Criminal Cases with a Restorative Approach. In the jurisdiction of the Serang Banten Police, this concept is applied to accelerate the case resolution process by prioritizing the restoration of relations between perpetrators, victims, and the community. Restorative Justice is also in line with the principle of protecting Human Rights. This study aims to examine and analyze the effectiveness of the application of Restorative Justice in resolving criminal cases in the jurisdiction of the Serang Banten Police and to examine and analyze the obstacles to the application of Restorative Justice as in resolving criminal cases in the jurisdiction of the Serang Banten Police and its Solutions. The research method used by the researcher is a legal approach in a sociological juridical manner, with descriptive research specifications. The data sources used include primary data obtained through observation and interview processes, as well as secondary data obtained from documents and literature studies. All data are then analyzed qualitatively with the approach of law enforcement theory, restorative justice theory, and restorative justice theory in an Islamic perspective. Based on the results of the study on the effectiveness of the application of restorative justice in resolving criminal cases in the jurisdiction of the Serang Banten Police, the application of restorative justice in the jurisdiction of the Serang Police has not been effective, because not all criminal cases have been resolved through the Restorative Justice approach or outside the formal justice system, based on data from 2022 P21 126 cases RJ 32 cases, 2023 P21 188 cases RJ 50 cases, 2024 P21 137 cases RJ 28 cases. There is no law that specifically regulates Restorative Justice, the application of Restorative Justice at the Banten Police is based on Perpol Number 8 of 2021, PERMA Number 1 of 2024, Law Number 2 of 2002, then Law Number 39 of 1999, the police have the authority to resolve minor cases through penal mediation. The mechanism is through a peace agreement between the perpetrator and the victim. The benefit is a reduced burden of cases in court. Obstacles. Obstacles in the implementation of Restorative Justice in Polres Serang explain five factors (legal factors, enforcement factors, community factors, cultural factors and infrastructure) found, including minimal socialization, limited*

technical training for officers, and resistance from parties who still adhere to the retributive approach. The solution requires strengthening regulations, increasing human resource capacity, and collaboration between institutions to support the sustainability and optimization of the implementation of Restorative Justice as a whole.

Keywords: *Effectiveness; Criminal Cases; Restorative Justice.*

1. Introduction

Law in Indonesia is basically created to regulate and direct human or community behavior towards the good, this is stated in both written and unwritten laws. The law has consequences of punishment that must be accepted by violators of the law itself, from social sanctions, fines and even criminal sanctions that can imprison violators of the regulations.

The criminal justice system in Indonesia, the settlement of cases is often carried out through litigation which takes a lot of time, money, and energy. However, for certain cases, the restorative justice approach has begun to be applied as an alternative solution in achieving more humane justice and is oriented towards restoring relations between perpetrators, victims, and the community. This approach aims to reduce the burden on the criminal justice system and provide an opportunity for perpetrators to be directly responsible to victims without having to undergo a long legal process. In addition, restorative justice can also avoid negative impacts such as social stigma against perpetrators and provide satisfaction to victims through faster and deliberation-based resolution.

The 1945 Constitution of the Republic of Indonesia Chapter 1 Article 1 paragraph 3 explains that "The State of Indonesia is a State of Law", this shows that everything that happens in Indonesia, whether related to the state or its people, is regulated in accordance with applicable legal regulations. This is formulated to limit the rights and obligations of the community towards the community and the community towards the state in order to guarantee a sense of justice for the Indonesian people.

Law enforcement has a purpose that is expected from law enforcement, according to Gustav Radbruch, law enforcement aims to achieve legal certainty, legal justice and legal benefits for the parties. This is in accordance with the opening of the 1945 Constitution of the Republic of Indonesia and also Pancasila in the second principle which reads "just and civilized humanity" this shows that law enforcement must also fulfill a sense of justice and humanity for the parties who are undergoing the law enforcement process, both victims and perpetrators.¹

According to Lawrence M. Friedman, effective law enforcement has three elements, namely legal substance, legal structure and culture or community culture. Legal substance contains regulations and laws used to ensnare criminals. Legal structure contains institutions that have the authority to implement regulations and laws which of course must have good human resources. Community Culture or Culture means the attitude and behavior of the

¹<https://id.wikipedia.org/wiki/Pancasila> , accessed on November 16, 2024, 09.15 WIB

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community towards the existence of laws enforced in the community, whether the community is classified as a law-abiding community or not.²

The Indonesian National Police, as a law enforcement institution, has an important role in implementing restorative justice, especially at the police resort (Polres) level. One of the areas that is the focus of implementing this approach is the Serang Police, which has jurisdiction over various criminal cases that occur in its jurisdiction. The implementation of restorative justice at the Serang Police, Banten refers to the Regulation of the Republic of Indonesia National Police (PERPOL) Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice. Therefore, it is necessary to conduct a study on the effectiveness of the implementation of restorative justice in this area, by examining the types of cases that can be resolved through this mechanism, the process and stages of its implementation, as well as supporting and inhibiting factors in its implementation.

PERPOL No. 8 of 2021 provides further explanation regarding the implementation of restorative justice in minor crimes, which is expected to reduce the burden of cases in court and provide faster, more efficient, and more recovery-oriented solutions. One of the principles emphasized is that the process of resolving cases through restorative justice must involve victims, perpetrators, and the community, with the aim of reaching a mutually beneficial agreement, which not only takes into account legal aspects, but also the social and psychological aspects of the parties. In this regard, PERKAP No. 8 of 2021 provides practical guidelines for judges to evaluate each case submitted, and determine whether the case is worthy of being resolved through a restorative approach, or whether it needs to be continued through formal legal channels.

Law No. 1 of 2023 provides a stronger legal basis for the sustainability of restorative justice by integrating the concept of restorative justice into the National Criminal Code. With the presence of restorative justice in the articles of the new Criminal Code, Indonesia confirms that the country's criminal law system is not only aimed at punishing, but also at restoring relations between parties involved in criminal acts. The new National Criminal Code provides space for mediation processes, peace agreements, or even alternative punishments such as community service or rehabilitation, depending on the type and severity of the crime committed. This serves to encourage perpetrators of crimes to take responsibility and make more constructive recovery efforts, which not only target the aspect of punishment, but also restore broader social relations.

Supreme Court Regulation (PERMA) Number 1 of 2024 regulates guidelines for judges in trying criminal cases using a restorative justice approach. This approach aims to provide a fairer resolution for all parties involved, including perpetrators, victims, and the community. This Perma emphasizes that restorative justice can be applied to certain criminal cases that meet the requirements, such as minor crimes, cases involving children, or other cases that legally allow for resolution outside the formal justice mechanism. In practice, this approach prioritizes mediation between the perpetrator and the victim with the aim of reaching a fair agreement for both parties. The implementation of this PERMA is expected to allow law

²<http://khoiruumah96.blogspot.co.id/2016/03/normal-0-false-false-false-en-us-x-none.html>, accessed on November 16, 2024, 09.45 WIB

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enforcers to be more flexible in resolving criminal cases, so that the justice system is not only oriented towards punishment but also towards restoration and reconciliation.

The effectiveness of restorative justice in Polres Serang Banten can be measured from several indicators, such as the level of success in resolving criminal cases outside the litigation path, the level of satisfaction of victims and perpetrators with the settlement process, and its impact on reducing crime rates in the jurisdiction. Restorative justice is expected to be able to create more substantive justice by prioritizing settlements based on agreements between the parties involved, so as not to only provide formal justice, but also a more real sense of justice for the community.

The implementation of restorative justice in the Serang Police area also faces many challenges, especially in terms of aligning perceptions between law enforcement officers, the community, and local customary institutions. Lack of knowledge or limited understanding of the principles of restorative justice often becomes an obstacle in its implementation. In addition, although laws and regulations have provided a strong legal basis, the success of the implementation of restorative justice is highly dependent on the active involvement of all parties—both law enforcement officers, customary leaders, and the community. Therefore, this study is very important to evaluate the extent to which restorative justice can run effectively in the Serang Police area, identify existing challenges, and find the best solution so that the justice system implemented can adapt to local needs without ignoring national legal principles.

Along with these developments, it is important to identify factors that influence the effectiveness of restorative justice in the Serang Banten Police area, both from the side of law enforcement officers and the local community. Perma No. 8 of 2021 and Law No. 1 of 2023 concerning the National Criminal Code provide clear legal guidelines regarding the implementation of restorative justice, but challenges arise when the mediation and case resolution process does not go as expected, such as the problem of lack of victim involvement or lack of support from indigenous communities. In addition, the diversity of criminal cases handled, ranging from minor crimes to serious crimes, is also a determining factor in whether the restorative justice method can be applied appropriately. For this reason, there needs to be a flexible approach in implementing the principles of restorative justice in order to adapt to the characteristics and severity of the cases faced.

The problem that is currently being widely discussed at the Serang Banten Police is the alleged criminal act of Assault. An example of a case that occurred with a case that was reported by Sarmin Bin (Alm) Taha, in the alleged Criminal Act of Assault allegedly committed by the reported party Suandi Als. Jendol Bin (Alm) Dul Mudri, which occurred on Wednesday, March 6, 2024 at around 09.00 WIB at Jembatan Jati Ds. Negara Kec. Kibin Kab. Serang, Police Report Number: LP / B / 94 / III / 2024 / SPKT.SATRESKRIM / POLRES SERANG / POLDA BANTEN, dated March 6, 2024, then withdrew the Report because it had been resolved through Deliberation / Family, the case of which had been reported to the Serang Banten Police. Stopping the investigation on legal grounds because of restorative justice.

The problem that is currently developing in society is the lack of public trust in law enforcement itself, the author categorizes there are three factors including laws or regulations that are no longer relevant, there are law enforcers who no longer have the soul as law enforcers, and the community that now seems not to care about the law so that it

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applies as it pleases. In addition, there are other factors that make the community less responsive to the law, namely the justice obtained after the trial is not as expected for both the victim and the perpetrator, this is indicated by the dissatisfaction of the sentence imposed on the perpetrator according to the victim and the dissatisfaction of the perpetrator when there is a settlement with the victim through mediation but is still punished even though the victim has agreed to mediation.

The author is interested in studying the concept of Restorative Justice to be applied in order to obtain the value of justice. In this case, the object is the criminal act of Abuse as a loss, where the return of the loss is something that is fought for by the victim. Studying the applicable legal regulations in Indonesia and the regulations in the Police regarding the process carried out when the reported case is resolved using the Restorative Justice method, as well as the stages carried out related to the implementation of the Restorative Justice concept can be implemented and seeing the role of living law or Living Law which is still firmly held by the Indonesian people. A restorative justice system that is integrated with clear legal procedures and comprehensive assistance can be an alternative to resolving criminal cases that provide fairer and more sustainable results. On the other hand, this also provides benefits for a more efficient criminal justice system in reducing the backlog of cases in court, as well as providing more opportunities for perpetrators to improve themselves and reintegrate with society. Thus, the success of the implementation of restorative justice in the jurisdiction of the Serang Banten Police will depend heavily on collaboration between law enforcement officers, community institutions, and other related parties, as well as a commitment to increasing broader legal and social understanding at the community level.

2. Research Methods

To conduct a study in this research, the author uses a sociological legal method (social legal research) to study and discuss the problems raised. Juridical is an approach that uses legal principles and principles derived from written regulations, sociological is an approach that aims to clarify the actual conditions that exist and appear in society regarding the problems studied or to give importance to the observation steps.³

3. Results and Discussion

3.1. The Effectiveness of Implementing Restorative Justice in Resolving Criminal Cases in the Jurisdiction of the Serang Banten Police

Restorative justice (restorative justice) is an approach in the criminal justice system that focuses on restoring the relationship between the perpetrator, victim, and community, not just punishing the perpetrator. This concept is an alternative to resolving criminal cases that is more humane and socially just.

The implementation of this mechanism is also in accordance with Law Number 2 of 2002 concerning the Indonesian National Police, which gives the Police authority to use discretion

³Rony Hanitijo Soemitro, *Legal Research Methodology and Jurimetrics*, Ghalia Indonesia, Jakarta, 1990, p. 34

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in carrying out their duties, including resolving cases through a non-litigation approach in order to maintain public order and justice. Article 4 of Law Number 2 of 2002 concerning the Indonesian National Police (Police Law) stipulates: "The Indonesian National Police aims to realize domestic security which includes maintaining public security and order, law order and enforcement, the implementation of protection, protection and public services, and the realization of public peace by upholding human rights."⁴

Restorative Justice also supported by Supreme Court Regulation (PERMA) Number 1 of 2024 which provides guidelines for judges in assessing and deciding criminal cases based on the principle of restorative justice. The synergy between Perpol and PERMA strengthens the position of restorative justice as a legitimate mechanism in the national criminal justice system.

The police are one of the sub-systems in the criminal justice system that plays an important role as the implementer of law enforcement in the most optimal form (in optima forma). In this context, the police are seen as a living representation of the law because the implementation of the law becomes real through the actions and decisions taken by the police. This process involves human elements who act as decision makers, so that the philosophical aspects of the law are transformed into concrete and humane actions.

Restorative justice or restorative justice is an approach to resolving criminal cases that is oriented towards recovery, not retaliation. This approach places perpetrators, victims, and the community as important parts of the legal conflict resolution process. Within the framework of human rights (HAM), the application of restorative justice is a progressive step in ensuring protection and respect for the human dignity of all parties involved.

Restorative Justice provide recognition and respect for victims' rights. In the conventional criminal justice system, victims are often marginalized, considered only as reporters or witnesses. Restorative justice changes this paradigm by providing space for victims to be heard, express their suffering, and participate in determining a fair resolution. This is a real form of respect for victims' rights to truth, justice, and reparation as stated in international human rights principles.

Referring to Article 28D and 28G of the 1945 Constitution of the Republic of Indonesia and regulated in Law Number 39 of 1999 concerning Human Rights. Article 3 of the Human Rights Law emphasizes that everyone has the right to human rights protection without discrimination. Restorative justice is also a form of human rights protection for perpetrators, especially for perpetrators who first commit minor crimes, children, or vulnerable groups. Through this mechanism, the perpetrator is not immediately sentenced to criminal penalties, but is given the opportunity to be responsible for his actions and correct mistakes through a peaceful mechanism. This approach is in line with the human rights principle that everyone has the right to receive humane, rehabilitative, and proportional treatment.

The application of restorative justice reflects respect for the right of communities to live in peace. By returning conflicts to the social realm, and resolving them through inclusive deliberation, restorative justice helps restore social relationships and prevent further

⁴Lindu Aji Saputro, Siti Rodhiyah Dwi Istinah, and Siti Ummu Adillah, "The Reality of the Criminal Justice System in Independence of Law Enforcement Based on Pancasila Law System", Law Development Journal, Vol. 4, No. 3, 2022, Sultan Agung Islamic University (Unissula), p. 366.

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resentment or violence. This creates justice-based social resilience and strengthens solidarity within communities.

The practice of restorative justice in Indonesia has experienced quite rapid development in recent years, especially through various programs and policies initiated at both the national and regional levels.⁵ Restorative justice, which focuses on restoring the victim's condition, restoring the perpetrator through rehabilitation, and improving relationships within the community, is seen as a more humane and efficient approach than the conventional criminal justice system which is punitive or retributive in nature.⁶

Restorative justice is an approach to resolving criminal cases that is carried out outside the formal judicial process, with an emphasis on dialogue between the perpetrator, the victim, each party's family, and interested parties. The goal is to achieve peace through agreement, where the perpetrator is given the opportunity to be held accountable fairly, such as by providing compensation, so that he does not have to undergo sanctions or criminal punishment.⁷

Restorative justice programs are based on the core idea that crime is not only a violation of state law, but also causes suffering to victims and disrupts public order. Therefore, resolving the impact of crime ideally involves both the perpetrator and those affected, while ensuring the provision of the necessary assistance and support for both victims and perpetrators to restore their condition.⁸

Based on the provisions in Article 7 paragraph (1) letter j of Law Number 8 of 1981 concerning Criminal Procedure Law (KUHP), as well as Article 16 paragraph (1) and Article 18 of Law Number 2 of 2002 concerning the Indonesian National Police, the Police are given the authority to carry out other actions outside those explicitly regulated in statutory regulations, as long as they meet certain requirements. This authority is known as discretion, which allows investigators to act according to the situation and conditions faced in the field.⁹

The legal needs of the community in resolving criminal cases through a restorative justice approach focus on efforts to restore conditions to their original state and create a balance between the protection and interests of victims and perpetrators, without relying on the principle of retaliation.¹⁰

Through the implementation of restorative justice mechanisms, one of which is the termination of the prosecution process involving the perpetrator, victim, their respective families, and related parties, it is hoped that a just settlement can be achieved by

⁵H. Yulianto, "Implementation of Restorative Justice in the Criminal Justice System in Indonesia," *Journal of Law and Security*, Vol. 13, No. 2, 2019, pp. 75–90.

⁶A. Wahyuni, "Restorative Justice in Indonesia: Case Study and Effectiveness Analysis," *Journal of Social and Law*, Vol. 10, No. 1, 2019, pp. 38–50.

⁷Gultom, Maidi., & Manalu, Sahata, "Restorative Justice Approach as an Alternative to Resolving Minor Assault Crimes at the Medan District Attorney's Office". *Fiat Iustitia Law Journal*, Vol.4, (No1), 2023, pp. 44-61.

⁸Rocky Mabun, Restorative Justice as a Future Penal System, <http://forumduniahukumblogku.wordpress.com> , accessed on May 01, 2025 at 15.00

⁹Mahrus Ali, *Basics of Criminal Law*, Jakarta: Sinar Grafika, 2015, p. 221.

¹⁰Safitri, Shalima Siti., Ardiansah, Didi Mohammad., & Prasetyo Andrian, "Quo Vadis Restorative Justice in Cases of Sexual Violence Crimes Post Law Number 12 of 2022 concerning Sexual Violence Crimes (Study of Article 23 of the TPKS Law)". *Wara Sains Journal of Law and Human Rights*, Vol. 2, (No. 1), 2023, pp. 29- 44.

prioritizing the restoration of the original situation, not retaliation. This termination of prosecution is carried out based on the principles of justice, public interest, proportionality, the use of criminal law as a last resort, and fast, simple, and low-cost implementation.¹¹

Based on the interview results according to Andi Kurniady Eka Setyabudi, Head of Criminal Investigation Unit of Serang Police, Banten Police, the implementation of restorative justice in Serang Police, Banten is carried out through several systematic stages and involves various related parties. The procedures and mechanisms for implementing restorative justice in Serang Police, Banten are:¹²

1. Identification of Cases That Can Be Resolved with Restorative Justice: Police officers at the Serang Police, Banten, first conduct a selection of incoming criminal cases, especially minor cases that can be resolved through restorative justice. In an interview with the Head of Criminal Investigation Unit of the Serang Police, it was explained that not all cases can be applied to this mechanism, but only those that meet the requirements such as an initial agreement between the perpetrator and the victim and the type of crime that does not pose a serious legal threat.

2. Mediation and Deliberation between Perpetrators, Victims, and Related Parties

Once the case meets the requirements, the next stage is the mediation process involving the perpetrator, victim, their family, and community leaders or mediators appointed by the police. According to the Serang Police mediator, mediation is carried out by creating a safe and open communication space to listen to the victim's complaints and the perpetrator's confession, and to find a peaceful solution that can be accepted by all.

3. Making Agreements and Termination of Legal Process: If mediation is successful and both parties agree on the proposed solution, a written agreement is made containing the perpetrator's obligations such as paying compensation or taking other remedial actions. This agreement then becomes the basis for investigators to officially stop the prosecution process. An investigator at the Serang Police explained that the termination of prosecution based on restorative justice aims to avoid a protracted legal process and provide quick and simple justice.

The implementation of this mechanism aims to provide justice that is oriented towards recovery and reducing the burden of cases in court, while also building public trust in law enforcement officers in the jurisdiction of the Serang Police.

Victims of minor crimes interviewed revealed that at first the victims were hesitant about resolving cases outside the courts. However, after receiving an explanation from the police regarding the concept of restorative justice, the victims began to understand that this process provided space for them to express their feelings and needs directly to the perpetrators. The victims felt that this process was faster, less complicated, and provided

¹¹Muliani, Kasim, Adil, Ahmad Jamaluddin, and Nurjanah Nonci, "Reformulation of Diversion Implementation Requirements in the Juvenile Criminal Justice System in Indonesia," *Journal of Indonesian Legal Development*, Vol. 5, No. 2, 2023, pp. 358–373.

¹²Interview with Head of Criminal Investigation Unit of Serang Police, Banten Police, AKP. Andi Kurniady Eka Setyabudi STK, SIK on April 15, 2025

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justice that touched them emotionally because the perpetrators showed remorse and provided compensation directly.¹³

Implementation of restorative justice in Polres Serang Banten, law enforcement officers, especially investigators and personnel in the criminal investigation department, play a central role. They not only function as law enforcers, but also as peace facilitators who prioritize a humanitarian approach. This role is very important in shifting the paradigm from a retributive approach (revenge) to a restorative approach that emphasizes the restoration of the condition of victims, perpetrators, and the community.

The perpetrator of a minor crime who was interviewed said that he felt very helped by the mechanism for resolving cases through a restorative justice approach. The perpetrator admitted that at first he was afraid of being sentenced to criminal penalties and undergoing a long legal process, but after the police explained the settlement process through penal mediation, he felt more relieved and open to taking responsibility. In the process, the perpetrator expressed his willingness to apologize and provide compensation to the victim.¹⁴

The mediation process took place with good facilitation from the police, and ended with a peace agreement being reached. For the perpetrators, this approach not only speeds up the resolution of the case, but also provides an opportunity to correct mistakes without having to enter the formal justice system. This shows that restorative justice is able to provide rehabilitative space for perpetrators while strengthening the values of social justice in society.

The restorative justice approach still has significant advantages. In this way, the settlement process becomes faster and does not burden the mental and time of the parties involved too much. In addition, restorative justice opens up space for perpetrators and victims to have direct dialogue, so as to create a peaceful atmosphere and repair social relations that may have been broken due to criminal acts. In the context of a society that knows and depends on each other, this approach helps restore harmony and mutual trust, which are difficult to obtain through conventional justice mechanisms. Therefore, although not perfect, restorative justice is considered an effective solution in rebuilding peace and justice as a whole.

Law enforcement officers play a role in selecting cases that have the potential to be resolved restoratively. Based on information from officers in the field, not all cases can be directly included in the restorative justice scheme. Investigators must ensure that the cases handled are in the minor category, the perpetrators are new to committing crimes, and there is agreement from the victim to resolve the conflict peacefully.

The apparatus acts as a mediator or facilitator in the mediation process. In this case, investigators have the responsibility to create a neutral, safe, and productive atmosphere of deliberation between the victim and the perpetrator. They arrange meetings, keep communication running smoothly, and help both parties find common ground for the conflict that occurs. This role requires strong communication skills and social approaches, because the success of mediation depends heavily on the trust of the parties.

¹³Interview with Rudi (pseudonym), victim of abuse, on April 20, 2025

¹⁴Interview with Heru (pseudonym) the perpetrator of the assault on April 20, 2025

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Law enforcement officers also play a role in creating agreement documents and following up on mediation results as a basis for terminating the legal process. If a peace agreement is reached, the investigator will prepare a report containing points of agreement, including the form of responsibility taken by the perpetrator, such as an apology, compensation, or community service. This file is then reported to the leadership to be approved and used as an administrative basis for terminating the prosecution.

The role of the apparatus also includes assistance and supervision of the implementation of the agreement results. This means that the apparatus does not only stop at the mediation process, but also monitors the implementation of the perpetrator's obligations as agreed with the victim. This is important to ensure that justice is truly achieved and does not cause new problems in the future.

The active and humanist role of law enforcement officers at the Serang Banten Police has become a key factor in the success of implementing restorative justice in the region. This effort is in line with the principles in Perpol Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice, where law enforcement officers are expected not to merely take repressive action, but also to be able to resolve conflicts through a more dignified approach.

The implementation of restorative justice in the jurisdiction of Polres Serang Banten is a form of legal breakthrough that is humane, efficient, and has a direct impact on social recovery. This program is consistently implemented in handling minor criminal cases, such as simple assault, petty theft, and minor fraud, by prioritizing the principles of deliberation, peace, and recovery.

Law Enforcement Theory according to Prof. Soerjono Soekanto, law enforcement will only be effective if there is harmony between three elements: legal structure, legal substance, and legal culture. In the application of restorative justice at the Serang Banten Police, all three can be found harmoniously. The legal structure is realized through law enforcement officers who understand the restorative mechanism, legal substance through Perpol No. 8 of 2021, and legal culture through community involvement in the process of resolving conflicts in a family and peaceful manner.

One of the cases that was successfully resolved restoratively was the case of Sarmin Bin (the late) Taha, in the alleged Criminal Act of Assault allegedly committed by the reported Suandi Als. Jendol Bin (the late) Dul Mudri, at Jembatan Jati Ds. Negara Kec. Kibin Kab. Serang. The mediation process involved community leaders, family, and was witnessed by investigators. A peace agreement was reached, the perpetrator apologized, and the victim withdrew the report. This proves that restorative justice is able to resolve cases without having to proceed to the courts.

The perspective of restorative justice theory according to Marianne F. Liebmann, restorative justice aims to restore the balance disturbed by criminal acts through dialogue and active participation of all parties. Liebmann emphasizes the importance of reconciliation, responsibility, and victim participation in the healing process. This application is evident in the procedures implemented by the Serang Banten Police, where victims are not only reporters, but also active subjects in mediation to voice their impact and determine the form of resolution.

3.2. Obstacles to the Implementation of Restorative Justice as a Way of Resolving Criminal Cases in the Legal Area of the Serang Police, Banten and Its Solutions

1. Obstacles in the Implementation of Restorative Justice in Criminal Cases at the Serang Police, Banten

The development of law in Indonesia is very dynamic and continues to change along with the development of society. Especially in the field of material criminal law and formal criminal procedure law, there are innovations outside the provisions of the Criminal Code (Criminal Code) and Criminal Procedure Code (Criminal Procedure Code) which are currently still in effect. This is because the Criminal Code and Criminal Procedure Code as old legal products have not undergone comprehensive updates or revisions. What has happened so far is only limited revisions or material tests of several articles in the two regulations, without replacing or revising the entire Criminal Code or Criminal Procedure Code.¹⁵

Discussions on law enforcement that ignore the role of humans as implementers will only produce studies that are rigid and lifeless. If law enforcement is only viewed from the perspective of norms and rules written in laws and regulations, the results of the analysis obtained tend to be formalistic and less reflective of reality. Therefore, it is important to understand law enforcement in the context of real implementation that involves humans as active subjects. Law enforcement should not only be oriented towards imposing sanctions for criminal acts, but rather emphasize achieving goals that are beneficial to society, such as recovery, prevention, and protection. Thus, law enforcement has a broader dimension of benefit than simply punishing perpetrators of criminal acts.

The conventional punishment system does not provide space for victims and perpetrators to be actively involved in the process of resolving the conflicts they experience. Any indication of a crime, regardless of whether the case progresses or not, is automatically included in the formal legal process which is entirely under the authority of law enforcement officers. Community involvement is neglected, as if it is no longer needed, because all case handling depends solely on the criminal decision handed down, without considering the needs or interests of the parties involved.¹⁶

The development of crime has also encouraged the birth of various new approaches in resolving general criminal cases, which continue to develop following the dynamics of the times. One of these approaches is law enforcement based on the concept of restorative justice. Restorative justice is understood as a case resolution mechanism that actively involves perpetrators, victims, their families, and other related parties, with the aim of finding a joint solution to the crime that occurred and its impacts. The main focus of this approach is the restoration of the original state, not on revenge.¹⁷

¹⁵Moch. Isa Nazarudin and Umar Ma'ruf, "Comparison Of The Implementation Of Pre-Court Process Before And After The Constitutional Court Decision Number: 21/PUU-XII/2014 In The Batang", *Journal of Sovereign Law*, Vol. 3, no. 1, 2020, p. 191-192.

¹⁶Edi Setio, Budi Santoso, and Agus Surono, "Implementation of Restorative Justice in Resolving Criminal Cases by Bhabinkamtibmas Polri in Lampung Province," *Jurnal Hukum*, Vol. 2, No. 7, 2020, pp. 859-879.

¹⁷Hanafi Arief and Ningrum Ambarsari, "Implementation of Restorative Justice Principles in the Criminal Justice System in Indonesia," *Al-Adl: Jurnal Hukum*, Vol. 10, No. 2, 2018, p. 173.

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The restorative justice process still has confusion in practice between the principle of legality in conventional criminal law and the flexible approach in restorative justice. Investigators are often hesitant to make decisions to terminate cases for restorative justice because they are worried that it will conflict with applicable legal principles.

Another obstacle is the lack of integration between legal instruments that support restorative justice with criminal procedural law that regulates the formal process of investigation, prosecution, and trial. This has resulted in the implementation of restorative justice at the Serang Police being carried out with great caution due to the potential for procedural violations.

The community in the jurisdiction of the Serang Police Department generally still has a retributive mindset, namely that the perpetrator must be punished accordingly. This complicates mediation and peace efforts because victims or victims' families tend to reject out-of-court settlements.¹⁸

The absence of representative mediation facilities. There is no special space that is suitable for bringing together victims, perpetrators, and related parties in a neutral and conducive atmosphere for the peaceful resolution process. The absence of a special unit that handles restorative justice on an ongoing basis makes the implementation of this approach sporadic and dependent on the initiative of certain personnel. In fact, sustainability is the key to instilling a new legal culture.

Andi Kurniady Eka Setyabudi explained the obstacles in implementing restorative justice at Polres Serang, Banten, that there is a lack of comprehensive understanding of restorative justice both among investigators and the community. Some officers are still hesitant to implement this mechanism because they are worried that it will not be in accordance with applicable formal legal procedures. "We face obstacles in mediation between victims and perpetrators, especially when victims demand maximum punishment or do not want to reconcile. In addition, facilities and supporting means for mediation are also very minimal."¹⁹

According to Andi, the obstacle to restorative justice for victims of criminal acts in the jurisdiction of the Serang Police is that they feel that the restorative justice process does not provide adequate justice and prefer to take formal legal channels to ensure that the perpetrators receive appropriate punishment.²⁰

According to Soekanto, the social environment, culture, and organizational structure also influence the success of law enforcement. In the Serang Police, social obstacles in the form of the mindset of the community and officers who still strongly hold the retributive paradigm (punishment alone) are a major obstacle. They tend to view justice only as a process of retribution, not as a restoration of relationships. This condition hinders the acceptance of restorative justice as an alternative to resolving cases that is more humane and comprehensive.

¹⁸Wahyuni, A., "Restorative Justice in Indonesia: Case Study and Effectiveness Analysis," *Journal of Social and Law* 10, no. 1, 2019, pp. 38–50.

¹⁹Interview with AKP. Andi Kurniady Eka Setyabudi STK, SIK, Op Cit.

²⁰Ibid.

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From an Islamic perspective, restorative justice is very relevant to the principles of sulh and deliberation contained in sharia teachings. Sulh means a peaceful resolution that prioritizes the restoration of social relations and justice for all parties. However, obstacles arise because some officials and the community do not yet understand in depth how to integrate Islamic values into restorative justice practices. In fact, a good understanding will encourage the acceptance and implementation of restorative justice that is in accordance with Islamic justice values.²¹

Another obstacle that is often encountered is the lack of clear and comprehensive regulations governing the restorative justice mechanism in the criminal justice system in Indonesia. Although Perpol Number 8 of 2021 has provided a legal basis for the implementation of restorative justice in the police environment, its implementation at the Polres level is still varied and inconsistent. The unclear regulation triggers doubts among officers in implementing the restorative justice mechanism in full, which ultimately creates administrative and procedural obstacles.

Obstacles also arise from victims who are reluctant to participate in the restorative justice process due to trauma and distrust of the justice provided. According to Liebmann, the success of restorative justice is highly dependent on the willingness of victims and perpetrators to engage in dialogue and compromise. However, in reality, victims who feel deeply wronged often reject this process because they are worried about not getting appropriate justice or are afraid of injustice, making it difficult to reach a peace agreement.

Differences in police interpretation of restorative justice. Some parties still consider it as an alternative to formal punishment, whereas the main goal of restorative justice is restoration and balanced justice between victims and perpetrators, not just avoiding punishment.²²This misunderstanding can lead to ineffective implementation and unsatisfactory results.

Coordination between institutions, obstacles are also no less important. The implementation of restorative justice requires the involvement of various parties, including the police, prosecutors, social institutions, and local communities. According to Soekanto, coordination between institutions and effective communication are key factors in successful law enforcement. However, in the Serang Police, there is still often a lack of synergy between institutions which causes the restorative justice process to be hampered and not well integrated.

Social stigma against perpetrators of criminal acts is also an obstacle. Perpetrators often feel afraid of being labeled or discriminated against by society if they participate in the restorative justice process. In fact, according to Liebmann's restorative justice theory, recognition and reintegration of perpetrators into society are very important for successful recovery. However, strong stigma often makes perpetrators reluctant to participate openly in the process.

time and resource constraints are practical obstacles in the implementation of restorative justice at Polres Serang. The mediation and deliberation process requires a long time and intensive involvement from various parties. Soekanto emphasized that the resource aspect

²¹A. Malik Abdullah, *Islamic Perspective on Restorative Justice*, Jakarta: Prenadamedia Group, 2015, p. 45

²²Bambang Waluyo, *Concept and Implementation of Restorative Justice in Indonesia*, Yogyakarta: LKiS, 2018, pp. 120 -126

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is a factor that cannot be ignored in law enforcement¹. With a high workload of officers and limited facilities, the implementation of restorative justice often cannot run optimally, so special attention is needed from related institutions to improve this aspect so that the goals of restorative justice can be achieved optimally.

The author argues that the implementation of restorative justice in Polres Serang still faces multi-dimensional obstacles. Therefore, synergy is needed between legal regulations, public education, increasing the capacity of officers, and policy support so that this approach is truly effective as an alternative in the criminal justice system.

2. Solutions in the Implementation of Restorative Justice at Serang Police, Banten

Restorative justice is an alternative approach to resolving criminal cases that emphasizes the process of recovery, not just punishment. This concept was introduced as a new effort in the Indonesian criminal justice system, and is generally applied at the investigation stage by the police. Unlike the retributive approach that focuses on punishing the perpetrator, restorative justice emphasizes the active participation of all parties involved, including victims, perpetrators, and communities, to reach a settlement agreement outside the formal justice system. The main goal is to restore the situation to the way it was before the crime occurred, while creating a more humane and inclusive sense of justice.²³

Restorative justice can be understood as an approach to resolving criminal cases involving the perpetrator, victim, family from both parties, and other relevant elements of society. This approach aims to jointly find solutions to the crime that occurred and its impacts, with an emphasis on efforts to restore conditions as before the crime occurred. This process emphasizes the principle of participatory and dialogical justice, not merely punishment, but healing and reconciliation between the affected parties.²⁴

According to Andi Kurniady Eka Setyabudi, the implementation of restorative justice at Polres Serang, Banten, faces various challenges that require concrete solutions so that the process of resolving criminal cases through this approach can run effectively and sustainably. The solutions for implementing restorative justice at Polres Serang are:²⁵

a. Strengthening regulations and internal policies is a very important first step to strengthen the implementation of restorative justice in Polres Serang. Clear and firm regulations will be a strong legal basis for police officers in implementing restorative case resolution mechanisms. In addition, detailed and easy-to-understand standard operating procedures (SOPs) are needed so that the restorative justice process can run consistently and measurably. Socialization of these regulations to all Polres personnel also needs to be carried out intensively so that all parties understand and can carry out their duties in accordance with applicable provisions.

b. Training and capacity building of personnel are the keys to success. Serang Police members need to receive special training on the principles of restorative justice, mediation techniques, and effective communication that is oriented towards restoring relationships between perpetrators, victims, and the community. With a good understanding, personnel

²³Ridho Mubarak and Wessy Trisna Feri Pasu Manaek Galingging, "Implementation of Restorative Justice in Cases of Abuse at the Dairi Police Resort," *Journal of Law*, vol. 2, 2020, pp. 16–23.

²⁴Marianne F. Liebmann, *Restorative Justice: How It Works*, London: Jessica Kingsley Publishers, 2007, p 25.

²⁵Interview with AKP. Andi Kurniady Eka Setyabudi STK, SIK, Op Cit.

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can facilitate constructive dialogue so that case resolution is not only punitive, but also mutually rehabilitative.

c. Improving supporting facilities and infrastructure is no less important so that the restorative justice process can run optimally. A private and comfortable mediation room is needed to create a safe and conducive atmosphere for victims and perpetrators to have open dialogue. In addition, the use of technology such as supporting applications for recording and monitoring cases will also help the efficiency of the process and transparency in the implementation of restorative justice.

The implementation of restorative justice at the Polres level still faces obstacles due to the unequal understanding of regulations such as the Chief of Police Regulation Number 8 of 2021. Therefore, technical regulations are needed in the form of operational guidelines or special Standard Operating Procedures (SOPs) that can guide officers in implementing restorative justice uniformly and effectively in the field. This regulation should also include what types of crimes are eligible to be resolved through this approach.

Investigators as the spearhead of the law enforcement process at the Polres level need to be equipped with special training on the concept and mechanism of restorative justice. This training includes communication skills, mediation, and understanding the rights of victims and perpetrators. According to Soerjono Soekanto, law enforcement cannot be separated from the role of humans as subjects who run the legal system itself, so that the quality of resources is a determining factor in the effectiveness of law enforcement.

The main strength of restorative justice is community involvement. In Polres Serang, optimizing the role of community, religious, and traditional leaders can bridge communication between victims and perpetrators. This role is very important to build trust and avoid social resistance. Liebmann emphasized that community involvement is an essential element of restorative justice, because crime is a violation of social relations.

The solution is to provide a neutral and experienced facilitator or mediator. Many cases fail to be resolved due to the lack of trust of the parties in the police's internal mediators. Therefore, cooperation is needed between the police and external institutions such as LBH or universities that have certified mediators. This cross-institutional collaboration also strengthens the legitimacy of the process.

It is necessary to establish a routine evaluation system for the process and results of case resolution through a restorative approach. Serang Police can create a special team to monitor the effectiveness of case resolution based on restorative justice, both in terms of satisfaction of the parties, reduced recidivism, and social recovery. This evaluation is important to determine long-term effectiveness and as a basis for policy improvement.

There are still many citizens who do not fully understand the benefits and mechanisms of restorative justice. Therefore, public education is very important, for example through social media, brochures, citizen forums, and direct approaches by Bhabinkamtibmas. When the community understands that they can play a role and get justice through non-litigation channels, resistance will decrease.

Restorative justice cannot run effectively if there is no synergy between the police, prosecutors, and courts. In the Serang Police, there must be intensive communication with the District Attorney and the District or Religious Court, so that cases that have been

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reconciled do not continue with the formal legal process. Harmonization between agencies will prevent duplication of processes and guarantee legal certainty.

The restorative justice theory approach is in line with Law Number 39 of 1999 concerning Human Rights (HAM), especially in the context of recognizing, protecting, and fulfilling basic human rights, both for victims and perpetrators. From a human rights perspective, law enforcement should not only focus on punishment, but must also consider restoring the victim's dignity and the perpetrator's social reintegration into society. Through dialogue and mutual agreement between victims, perpetrators, and society, restorative justice provides a space for a just, inclusive, and participatory resolution, without ignoring the victim's right to receive recognition and compensation for the suffering they have experienced. This approach reflects more humanistic values of justice, making it an appropriate alternative in modern law enforcement based on human rights.

The author argues that the success of the implementation of restorative justice is largely determined by the synergy between clear regulations, professional and humanistic law enforcement officers, and a community that understands and supports the values of restorative justice. Integrating the three theories above, the solution to the implementation of restorative justice at Polres Serang Banten is not only technical, but also philosophical and cultural. This ensures that the justice that is upheld is justice that touches on the legal, social, and spiritual aspects of society.

4. Conclusion

1. effectiveness of the application of restorative justice in resolving criminal cases in the jurisdiction of the Serang Banten Police, the application of restorative justice in the jurisdiction of the Serang Police, has not been effective, because not all criminal cases have been resolved through the Restorative Justice approach or outside the formal justice system, based on data from 2022 P21 126 cases RJ 32 cases, 2023 P21 188 cases RJ 50 cases, 2024 P21 137 cases RJ 28 cases. There is no law that specifically regulates Restorative Justice, the application of Restorative Justice at the Banten Police is based on Perpol Number 8 of 2021, PERMA Number 1 of 2024, Law Number 2 of 2002, then Law Number 39 of 1999, the police have the authority to resolve minor cases through penal mediation. The mechanism is through a peace agreement between the perpetrator and the victim. The benefit is a reduced burden of cases in court. Obstacles. 2. Obstacles in the implementation of Restorative Justice at Polres Serang explain five factors (legal factors, enforcement factors, community factors, cultural factors and infrastructure) found, including minimal socialization, limited technical training for officers, and resistance from parties who still adhere to a retributive approach. The solution requires strengthening regulations, increasing human resource capacity, and collaboration between institutions to support the sustainability and optimization of the implementation of Restorative Justice as a whole.

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