

The Implementation of Restorative Justice in Cases of Verbal Sexual Harassment

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Abstract. *Verbal sexual harassment is a form of non-physical sexual violence crime as regulated in Law No. 12 of 2022 concerning Sexual Violence Crimes. This action not only degrades the victim's dignity but can also cause prolonged psychological impacts. This research aims analyze the application of the restorative justice principle to the crime of verbal sexual harassment and examine the role of law enforcement officials in its implementation. This research uses a normative-juridical method with a statutory approach and a literature study of primary, secondary, and tertiary legal materials. The results of the research show that although the application of restorative justice is possible based on Police Regulation Number 8 of 2021, Attorney General's Regulation Number 15 of 2020, and Supreme Court Regulation Number 1 of 2024, its implementation cannot be done without careful consideration. This is because the crime of verbal sexual harassment is associated with the victim's immaterial loss, which is difficult to recover merely through a peace agreement. Additionally, there is a risk of victimization if the victim is in a vulnerable position during the reconciliation process. Therefore, a litigation approach should still be prioritized when the victim explicitly desires law enforcement for the sake of certainty and the protection of their rights.*

Keywords: *Harassment; Justice; Protection; Restorative; Sexual; Victim.*

1. Introduction

Amidst technological advances that drive globalization, many women and men struggle to avoid sexual harassment. Sexual harassment between men and women, or vice versa, is often considered normal and sometimes even attractive, making it a topic of conversation. Unwanted sexual behavior or actions that harm or hurt the victim emotionally are known as sexual violence. Sexual violence, especially verbal abuse, is an act that destroys the victim's dignity, self-confidence, and well-being. These acts disrupt the stability and security of society and violate the victim's privacy. Increased awareness of sexual harassment demands stronger legal protection and fairer methods to address this issue.

Law No. 12 of 2022, through Article 4, defines sexual violence crimes as various acts that harm victims, ranging from physical and non-physical violence to forced contraception,

sterilization, marriage, domestic torture, exploitation, slavery, and domestic violence, as well as sexual violence through digital media. The scope of the law has been significantly expanded to include acts such as forced marriage, domestic violence, exploitation, slavery, and other forms of domestic violence, including sexual violence committed through digital media. This expanded definition also clearly covers the exploitation of children in the home, rape, sexual relations, and indecent acts against children, as well as other indecent acts that fundamentally violate moral standards and the free will (autonomy) of the victim. In addition, this category of crimes includes acts that demonstrate a violation of morality and are contrary to the will of the victim; the production or distribution of pornography involving children or containing elements of explicit sexual violence and exploitation; forced prostitution; human trafficking for the purpose of sexual exploitation; sexual violence occurring within the home; and all other crimes that are explicitly classified as sexual violence in various applicable laws and regulations (Mufakkar & Antasari, 2023).

Everyone has the potential to become a victim of sexual harassment, and this is a common occurrence in society. Data from the SIMFONI-PPA website shows that 31,947 cases of sexual harassment occurred in 2024. One common form of verbal sexual harassment in society is *catcalling*. Victims aged 13-17 years old account for 35.2%, and perpetrators aged 25-44 years old account for 45.5%. Perpetrators of *catcalling* can be punished with up to 9 months in prison or a fine of IDR 10,000,000 (ten million rupiah) according to Article 5 of Law No. 12 of 2022.

However, in many cases, these sanctions are often not enforced. Instead, the case is resolved through restorative justice. This method involves the perpetrator, victim, traditional leaders, stakeholders, and religious leaders to discuss and reach a solution that prioritizes justice for both parties and allows for restoration. For example, on Wednesday, June 15, 2022, a woman in East Jakarta experienced catcalling from six TNI members while at a food stall in Condet. This case was eventually resolved through mediation (Sari, 2022). Another example occurred on Monday, November 7, 2022, when a taxi driver catcalled a Russian woman in the Mega Kuningan area, near the Chinese Embassy. This incident was also resolved peacefully (Bustomi & Carina, 2022).

Restorative justice, as an alternative to criminal case resolution, prioritizes collaborative dialogue between perpetrators, victims, victims' families, and other stakeholders to achieve a resolution that focuses on healing, not merely retribution (Article 11 of Law No. 1 of 2012). In the context of verbal sexual harassment, this approach specifically supports the psychological recovery of victims, while educating perpetrators about the impact of their actions and fostering a deep sense of moral responsibility. Through this open interaction, restorative justice aims to restore disrupted social relationships and restore harmony in the community, so that cases do not only end with formal punishment, but also with lasting behavioral transformation and empathy. This approach emphasizes that the emotional and social recovery of victims is at the core of justice, which ultimately contributes to the prevention of future violence through collective awareness.

The debate surrounding verbal sexual harassment offers an interesting opportunity for

exploration in legal studies, with a focus on practical implementation and the role of key actors in the justice system. For example, Siti Nurhalin's (Nurhalin, 2022) research analyzes the concept of catcalling in Indonesian criminal law and the protection afforded to victims by the Sexual Violence Law, but fails to examine the role of law enforcement officials in handling such cases. To address this gap, this research aims to provide a more in-depth perspective on how law enforcement officials carry out their role in managing incidents of verbal sexual harassment. Meanwhile, the work of Sayyidina Mufakkar and Rr. Rina Antasari (Mufakkar & Antasari, 2023) explores the resolution of catcalling through restorative justice, which is measured by the principles of certainty, fairness, and benefit, and a review of Islamic criminal law, but lacks detail in explaining the practical application of restorative justice in practice. Thus, this study will broaden the horizon by investigating the application of restorative justice in the context of actual verbal sexual harassment crimes, while emphasizing the contribution of law enforcement officials to ensure effective and recovery-based resolutions, thereby enriching legal discourse with a more applicable and holistic approach.

2. Research Methods

This study used a normative legal method, as defined by Soerjono Soekanto and Sri Mamudji as a legal research approach that relies on literature analysis and secondary data (Rifa'i et al., 2023). Thus, this normative research focuses on the study of legal documents, including court decisions, contracts, agreements, deeds, and legal theories, to reveal the norms underlying legal practice (Muhaimin, 2020).

The normative basis of this research is supported by a series of important primary legal references. These references include the Criminal Code, Law No. 12 of 2022 concerning Sexual Violence Crimes, Supreme Court Regulation Number 1 of 2024, Indonesian National Police Regulation Number 08 of 2021, and Attorney General's Regulation Number 15 of 2020. These regulations serve as an important and direct legal framework for analysis. In addition, this study uses secondary legal references in the form of reference books, academic articles, legal journals, and press publications (newspapers). These additional references serve as supporting instruments to enrich the understanding of the socio-legal context and facilitate a more in-depth interpretation. Thus, this study is expected to produce a more comprehensive view of the dynamics of law enforcement in society, emphasizing the practical relevance and ethical implications of the standards under review.

Legislation, official documents, books, journals, and academic literature are relevant written sources for the data collected in this study. Literature studies are very important in normative research to understand the current legal framework, the concept of restorative justice, and how law enforcement officials implement it. This study analyzes data by interpreting various relevant legal sources. Furthermore, the results of the interpretation are linked to the research question to provide an objective assessment and answer the problem (Ali, 2014).

3. Result and Discussion

3.1. The Application of Restorative justice in Verbal Sexual Harassment Crimes

Verbal sexual harassment, defined as verbal expressions, gestures, or actions that are inappropriate and contain sexual content and are intended to humiliate the victim, can be classified as a type of non-physical sexual harassment under Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence. Specific examples of this behavior include, but are not limited to, whistling, winking, making sexual remarks, soliciting sexual intercourse, and displaying pornographic material or activities, such as masturbation (Attorney General's Office of the Republic of Indonesia, 2023). This is in line with the provisions of Article 5 of the Sexual Violence Crimes Law, which stipulates that anyone who commits non-physical sexual acts that demean a person's dignity based on their sexuality or morality can be punished with a maximum imprisonment of nine months and/or a maximum fine of IDR 10,000,000.00 (Article 5 of Law No. 12 of 2022). In a broader context, Article 4 paragraph (1) of the Law provides a comprehensive definition of sexual violence crimes, including non-physical and physical sexual harassment, forced contraception, forced sterilization, forced marriage, sexual torture, sexual exploitation, sexual slavery, and electronic sexual violence (Article 4 of Law No. 12 of 2022). Therefore, this legal recognition affirms the protection of individual dignity from all forms of degrading verbal attacks, thereby encouraging effective prevention and law enforcement in such cases.

Article 406 of the 2023 Criminal Code categorizes exposing nudity, genitals, or sexual activities that are contrary to social norms at the time and place of the incident as a form of indecency (Haris, Hidayat, & Ahsyam, 2023). This is closely related to Article 281 of the Criminal Code, which regulates indecent acts and requires that such acts be committed openly or in public places where others can see or access them. Thus, non-physical sexual harassment involving such exposure can be considered a violation of public decency, emphasizing the importance of enforcing social norms through law to prevent negative impacts on society.

The main difference between Article 5 of the Sexual Violence Crimes Law and Article 281 paragraph (1) of the Criminal Code and Article 406 paragraph (1) of the Criminal Code centers on the element of "open" or "in public." In the context of the TPKS Law, non-physical sexual harassment can still occur even if the act is not committed in a public space. This is because the main focus of this crime is the harm and impact directly caused to the victim. Conversely, under the Criminal Code, indecent acts can only be criminalized if they are committed in public. However, it should be acknowledged that Article 281 paragraph (2) of the Criminal Code and Article 406 paragraph (2) Of the criminal code 2023 affirm that indecent acts can occur without physical contact, as long as the act is committed without the victim's consent. An analysis of the spirit of these two regulations shows that they are consistent: both regulate acts related to sexuality without physical contact and committed against the victim's will. Based on these considerations, Article 5 of the Sexual Violence Crimes Law is recommended in cases that fulfill the elements of the comparative articles. This preference is based on the fact that the Sexual Violence Crimes Law provides a more relevant proof mechanism and more comprehensive protection for victims (Haris, Hidayat, & Ahsyam, 2023).

A 2019 survey on sexual harassment in public spaces found that 64% of 38,755 women and 11% of 28,403 men had experienced harassment before. The data shows that about sixty percent experienced verbal or spoken harassment, twenty-four percent experienced touching, and fifteen percent experienced visual harassment, such as staring or gestures (Qila, Azizah, & Rahmadina, 2021). In addition, a previous survey conducted by the East Jakarta Metro Police showed that there were cases of sexual harassment reported throughout 2023. From January to April, four people reported incidents, and from May to September, nine people reported incidents. Verbal harassment is the most common type of sexual harassment, although it is rarely reported because it is so common. Verbal harassment includes vulgar comments, insults, or rude remarks about a person's physical appearance, clothing, or body parts. In most cases, the resolution only reached the mediation stage and ended with reconciliation or restorative justice (Hia, 2024).

In Indonesian jurisdiction, incidents of verbal sexual harassment such as catcalling, which are classified as verbal sexual harassment crimes under Article 5 of Law No. 12 of 2022, often face significant obstacles to resolution through formal legal mechanisms. These obstacles mainly stem from limited evidence or the complexity of power dynamics. As an alternative means of dispute resolution outside of litigation, the restorative justice approach offers a solution that focuses on achieving more holistic justice. This approach emphasizes the active participation of victims, perpetrators, and affected communities. Unlike conventional legal systems that prioritize punishment for perpetrators, restorative justice aims to repair the harm suffered by victims and rebuild social relationships damaged by crime. Through safe and structured dialogue, victims have the opportunity to achieve emotional healing, while perpetrators are given the opportunity to acknowledge the impact of their actions and commit to not repeating them. These efforts also encourage greater and more sustainable social change in the handling of sexual harassment cases.

Verbal sexual harassment against women, often perpetrated by men in public spaces such as on the street, is on the rise in society, surpassing non-verbal forms. These acts include whistling, catcalling, certain gestures, staring at women's bodies, as well as loud and intrusive remarks, which are collectively known as street harassment. This phenomenon shows how public spaces can become arenas of gender inequality, where such behavior not only disturbs individuals' comfort but also reinforces harmful social norms, thus urging the need for collective intervention to promote a sense of security and mutual respect (Dewi, Ilmiya, & Listi, 2022). This approach emphasizes the importance of dialogue and reconciliation in addressing harmful behavior, thereby contributing to the formation of healthier and more respectful social norms in crowded urban environments.

Although verbal sexual harassment is punishable by criminal penalties under the law, if an amicable agreement can be reached between the two parties, the case can be considered closed (*afdoening buiten proces*). This allows the parties to avoid the process of transferring the case to the prosecution stage (prosecutor's office). The context of this agreement can be linked to Police Regulation No. 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative justice, especially in the early stages of criminal settlement, particularly during the investigation and assessment stages. The principle of restorative justice in handling crimes, including verbal sexual harassment, aims to achieve social healing by balancing the interests of victims and

perpetrators, in accordance with the ideals of a legal system that focuses on humane resolutions. Based on Article 5 of Indonesian National Police Regulation No. 8 of 2021, this principle can be implemented if the case in question meets important criteria, including: it does not cause significant unrest or rejection from the community; it does not trigger widespread conflict in the community; it does not have the potential to divide the country; it is not excessive or destructive; and it is not a repeat offense based on a court decision (Article 5 of Indonesian National Police Regulation No. 8 of 2021). Therefore, the application of this mechanism must be carried out carefully to avoid injustice to the victim. Investigators play an important role in assessing whether restorative justice mechanisms can eliminate the need to continue formal court proceedings. This approach not only serves to facilitate therapeutic dialogue but also strengthens community reconciliation through prudent and fact-based analysis.

The application of restorative justice principles within the police force must be accompanied by strict oversight mechanisms to prevent potential abuse of authority by interested parties. Therefore, Police Regulation No. 8 of 2021 has established a series of formal requirements that must be met, as clearly stated in Article 6 paragraphs (1) and (2) of the regulation. These requirements include the obligation to make a written peace agreement signed by both parties to the dispute, except in cases of narcotics crimes. In addition, the restorative justice process must guarantee the fulfillment of the rights of victims and the implementation of the perpetrator's responsibilities. The fulfillment of these rights and responsibilities can be achieved through several forms of compensation, such as the return of goods, compensation for financial losses, reimbursement of costs incurred as a result of the crime, or restitution (Article 6 of Police Regulation Number 8 of 2021). Therefore, the settlement of cases through restorative justice cannot be done arbitrarily; rather, it must meet formal requirements that fully guarantee justice for all parties. Basically, these requirements aim to create a transparent and accountable process based on the values of justice and humanity, thereby providing the highest protection for victims and perpetrators.

To achieve a proportional balance between protecting the rights of victims and providing perpetrators with the opportunity to make reparations without having to go through a lengthy judicial process, the principle of restorative justice can be applied in resolving cases of verbal sexual harassment. If the case has reached the prosecution stage, this settlement mechanism can refer to Attorney General Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative justice. Based on the provisions of Article 5 paragraph (1) of the regulation, prosecution may be terminated and the case may be declared legally concluded (*afdoening*) if it meets a number of cumulative conditions. These conditions include: the perpetrator is a legal subject who has committed a criminal offense for the first time (*erstmalig*); the punishment imposed is only a fine or imprisonment for a maximum of five years; and the losses incurred or the value of the missing evidence does not exceed IDR 2,500,000.00 (Article 5 of Attorney General Regulation No. 15 of 2020). Therefore, the application of restorative justice at the prosecution stage is strictly limited to minor criminal offenses (*tindak pidana ringan*) involving perpetrators with no prior criminal record, thereby ensuring a more humane and efficient legal process.

In addition, there are also a number of additional requirements that must be met in order for the principle of restorative justice to be applied. These requirements are outlined in Article 5

paragraph (6) of Attorney General Regulation Number 15 of 2020 and include positive support from the community as a form of social legitimacy, which prevents public rejection of peaceful resolutions. In addition, the suspect must restore the original situation, such as returning the proceeds of the crime to the victim, providing compensation, covering the costs incurred, or repairing the damage caused. A peace agreement between the victim and the suspect is also required, reflecting the good faith of both parties to settle the case out of court (Article 5 of Attorney General Regulation No. 15 of 2020). Thus, this approach encourages a holistic settlement, focusing not only on the individual but also on restoring social balance in the surrounding environment.

In an increasingly flexible judicial system, cases of verbal sexual harassment that have reached trial stage have the opportunity to be resolved through the application of restorative justice principles. This implementation refers to Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Criminal Cases Based on Restorative justice. Article 6 paragraph (1) of this regulation outlines opportunities for cases that meet the requirements in several categories. These categories include: minor crimes with a maximum compensation limit for victims of IDR 2,500,000.00 or equivalent to the provincial minimum wage; complaints; criminal offenses with a maximum penalty of five years' imprisonment, including jinayat cases according to qanun (local regulations in Aceh); cases involving children who have never successfully undergone diversion; and criminal offenses related to traffic. This restorative justice approach facilitates a more humane resolution, with an emphasis on restoring relationships and minimizing long-term negative impacts on all parties involved. This provision indirectly reflects the Supreme Court's commitment to expanding the scope of restorative justice by providing appropriate guidelines for judges in deciding cases. This regulation is expected to ensure the consistent and transparent application of restorative justice in the court system, while always guaranteeing the fulfillment of victims' rights (Article 6 of Supreme Court Regulation No. 1 of 2024).

The application of restorative justice principles in handling verbal sexual harassment crimes faces significant challenges, particularly in relation to potential public reluctance and resistance. This is an important condition that must be considered in this approach. Referring to Articles 5 and 6 of Police Regulation No. 8 of 2021, this principle should be applied if all formal and material requirements have been met. However, police institutions are required to conduct an in-depth analysis of the case, taking into account the risk of negative public reaction that could interfere with the effectiveness of the settlement process. Similarly, Attorney General Regulation No. 15 of 2020 concerning the Termination of Prosecution Based on Restorative justice opens up opportunities for its application on the condition that there is a peace agreement between all parties, including the requirement for a positive response from the community, as stated in Article 5 paragraph (6) letter c. However, the requirement for a positive response from the community is often difficult to fulfill. This is due to the fact that verbal sexual abuse inherently triggers collective outrage and social aversion, regardless of the gender identity of the perpetrator or victim, as either men or women can be victims. Therefore, this resolution process must carefully consider the broader social impact to ensure a fair resolution is achieved while supporting social reconciliation.

The resolution of verbal sexual harassment crimes through a restorative justice approach still

leaves a number of problems when analyzed from the perspectives of gender, legal philosophy, and legal sociology. This is mainly due to the strong pragmatic understanding in society, where victims and their families prefer peaceful resolutions to avoid social exposure that could increase shame and stigma to the family's good name. This attitude shows an imbalance between the desire for a quick resolution and the principle of substantive justice for victims (Mufakkar & Antasari, 2023). Furthermore, Article 6 paragraph (3) of Law No. 8 of 2021 regulates the form of settlement in the form of material compensation such as the return of goods, compensation for costs, or compensation for losses. This formulation implicitly shows that the victim's losses are viewed in a framework that can be measured financially. In fact, in cases of verbal sexual harassment, the dominant losses are immaterial and touch on the victim's dignity, sense of security, and mental health. Unfortunately, in practice, financial compensation from the perpetrator is often accepted by the victim or their family without considering the long-term psychosocial impact, but rather driven by urgent economic needs (Mufakkar & Antasari, 2023). In addition, the realization of the fulfillment and restoration of victims' rights as stated in Article 13 paragraph (3) letter b of Police Regulation Number 8 of 2021 tends to face significant obstacles. Recovery in this context is non-physical and difficult to measure objectively. As a result, there are no valid parameters to assess whether victims have truly recovered, both psychologically and socially, so that the main objective of restorative justice is not fully achieved (Mufakkar & Antasari, 2023).

Thus, verbal sexual harassment crimes will certainly encounter many obstacles if resolved using the principles of restorative justice because, when viewed from the perspective of justice for the victim, it is difficult to consider this a fair outcome since any form of sexual harassment can cause trauma to the victim. Verbal sexual harassment or non-physical sexual violence is a complaint-based offense, which gives victims the opportunity to decide whether or not to report the incident to the police. Therefore, if the victim reports the incident, it is best not to apply the principle of restorative justice and to continue to refer to Article 5 of the Sexual Violence Criminal Law.

3.2. The Role of Law Enforcement Officials in Implementing the Principle of Restorative justice for Verbal Sexual Harassment Crimes

The judicial practice in Indonesia has adopted the principle of restorative justice as an important alternative to the conventional legal system that only focuses on punishment. The main focus of this approach is to restore the relationship between the perpetrator, the victim, and the affected community. Particularly at the police investigation level, this mechanism has been widely applied in cases of domestic violence and various minor crimes (Waluyo, 2020). This application reflects efforts to develop a more inclusive judicial system that considers the long-term consequences for society, rather than relying solely on criminal punishment. The agenda for reforming the criminal justice system in Indonesia explicitly emphasizes efforts to implement restorative justice. This paradigm is concretely implemented in the handling of cases involving children in conflict with the law through diversion mechanisms, which primarily aim to achieve restorative outcomes (Lewoleba, Mulyadi, & Wahyuningsih, 2023). The main objective of restorative justice is to repair the negative impact of an offense. The effectiveness of this approach, which is entirely 'restorative', depends heavily on the extent to which all parties involved engage in sincere

and transparent discussions and the extent to which they actively participate in reaching a consensus (Wachtel, 2013).

The restorative justice approach is a manifestation of the evolution of the criminal justice system, shifting the focus from a retributive philosophy to a framework that emphasizes comprehensive recovery from the impact of harm suffered (Hibrawan, 2023). In essence, the concept of restorative justice is quite simple: it is a justice approach that focuses primarily on repairing the harm caused by a crime, rather than simply punishing the offender (Tenriawaru et al., 2022). From a restorative justice perspective, criminal acts are understood not only as violations against the state—as in the conventional view—but also as serious harms against individual victims, communities, and disrupted social relationships (Sirande, Mirzana, & Muin, 2021). However, applying this noble concept to cases of verbal sexual harassment raises significant legal and ethical complications, requiring law enforcement officials to exercise their discretion very strictly. In essence, the restorative justice approach is an effort to shift the resolution of criminal cases from formal courts to joint discussions or deliberations. This idea is very much in line with the spirit of deliberative consensus that we know from the fourth principle of Pancasila, which emphasizes resolving problems in a familial manner until a mutual agreement is reached (Alfitra, 2023).

The application of restorative justice principles is supported by various legal directives and instruments. Among them are Supreme Court Regulation No. 1 of 2024, Attorney General's Regulation No. 15 of 2020, and Police Regulation No. 8 of 2021. These three regulations together provide an important legal basis for law enforcement officials, from the courts and the attorney general's office to the police, to prioritize the resolution of cases through social restoration mechanisms, rather than solely through a retributive approach. Within this normative framework, the Indonesian criminal justice system is gradually shifting its focus to restorative aspects, ensuring that the legal process is not only aimed at imposing sanctions (punishment) but also focuses on restoring the social impact of crime. At the initial stage, the police, as the frontline, have the authority to assess whether a case is suitable for resolution through a restorative approach. In the practice of criminal law enforcement, the police institution plays a strategic role as the entry point in the process of handling a criminal act. This is because, in an integrated criminal justice system, the police are the first institution with the authority to receive, follow up on, and process reports or findings of alleged crimes. This authority gives the police the capability to conduct an initial screening of legal events that occur in the community. Thus, the police have the responsibility to determine whether an act truly fulfills the elements of a criminal offense that warrants further investigation and prosecution, or conversely, does not meet the criteria as a criminal act according to applicable law (Hasibuan, 2021).

The Indonesian National Police plays a crucial role in realizing the public's aspirations for an ideal judicial system based on fundamental legal values such as justice, benefit, and legal certainty. One of the progressive steps taken is the provision of a mechanism for resolving criminal cases through a restorative justice approach, which is not merely law enforcement, but also promotes a balance between victim protection, perpetrator

accountability, and the restoration of social order disrupted by criminal acts. In practice, this approach requires law enforcement officials, particularly investigators, to ensure that every process meets all the material and formal requirements explicitly stipulated in Police Regulation No. 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative justice. If these requirements are comprehensively met, investigators have a strong legal basis to terminate the investigation or prosecution process, which is a manifestation of the principle of *rechtmatig*, or a decision based on valid and reasonable legal considerations. These decisions do not imply neglect of law enforcement, but rather affirm that the law can be enforced in a more humane, proportional, and beneficial manner for society (Hutahaeen, 2022). Thus, restorative justice becomes a bridge between formal law enforcement and the fulfillment of society's expectations for holistic justice.

The Indonesian National Police, as the leading institution in the criminal justice system, is given discretionary authority to terminate investigations through restorative justice mechanisms. This authority is operationally regulated in Police Regulation Number 8 of 2021 (Police Regulation Number 8 of 2021). The core philosophy of this Police Regulation clearly emphasizes the goal of achieving criminal resolutions that prioritize restoration to the original state (*restitutio in integrum*) and ensure a balance of protection between the interests of victims and offenders (Police Regulation Number 8 of 2021). However, this discretionary authority is explicitly limited and bound by two important conditions listed in Article 5 of Police Regulation No. 8 of 2021: (1) there is no potential for significant disruption or rejection from the community, and (2) holistic restoration is achieved for the victim.

Based on the provisions of Article 12 of Indonesian National Police Regulation Number 8 of 2021, it is explained that members of the Indonesian National Police who have a Community Development function and members who carry out the Samapta function can play a role in the settlement of minor crimes, particularly at the stage of carrying out the Criminal Investigation function. This provision authorizes members of the Police in their preventive and repressive roles to contribute to case handling based on the principles of restorative justice, provided that the criminal acts handled meet the criteria for minor criminal acts. Furthermore, the police's obligations do not stop at the technical implementation of investigations but also include oversight of the application of restorative justice itself. This is regulated in Articles 19 and 20 of the same regulation, which emphasize that supervision is carried out to ensure that every application of the principles of restorative justice is in accordance with legal provisions, upholds the principle of proportionality, and prevents abuse of authority by law enforcement officials. Thus, this oversight mechanism serves as a control instrument to ensure that the implementation of restorative justice remains within the corridor of fair, transparent, and accountable law.

Although verbal sexual harassment is often categorized as a minor offense, which formally opens up opportunities for restorative justice, police investigators must be aware that verbal sexual harassment is a gender-based crime that touches on dignity and morality (Sihotang, 2020). The practice of terminating investigations through restorative justice has

great potential to trigger widespread social rejection, thereby automatically invalidating the sociological requirements mandated in Police Regulations. In addition, the police must correct the focus on material recovery referred to in Article 6 of the Police Regulation. The losses suffered by victims of verbal sexual harassment are dominated by psychological trauma, fear, and abuse of dignity; thus, investigators must establish protocols that require structured non-financial recovery components, such as the perpetrator's obligation to bear the costs of psychotherapy or supervised behavioral rehabilitation as the only parameters of true and substantive recovery.

Therefore, in carrying out its role as a law enforcement agency, the Indonesian National Police has an obligation to facilitate the parties involved in criminal cases, including cases of verbal sexual harassment, to achieve an effective and fair resolution. Based on the previous description, investigators have the primary responsibility to ensure that all formal and material requirements have been met before applying the principles of restorative justice. With this approach, the legal system not only enforces rules but also prioritizes the restoration of social relations and holistic justice for all parties involved. However, if the restorative justice mechanism is applied to cases of verbal sexual harassment and examined from the perspective of justice for the victim, this approach has the potential to not reflect a sense of justice. This is because verbal sexual harassment has a profound impact on the victim, especially from a psychological aspect, such as trauma, fear, and loss of security.

In general, the criminal justice system in Indonesia has the main objectives of enforcing laws and regulations, ensuring public order, and guaranteeing legal certainty. These three elements are the essential dimensions of the state in creating justice through the application of positive law (Ginting et al., 2023). In this context, the Attorney General of the Republic of Indonesia plays a central role in supporting the Law Enforcement System, holding exclusive authority as the screener and supervisor of criminal cases (*dominus litis*). Legally, only the Attorney General's Office has the right to assess the completeness and validity of evidence to determine whether a case is eligible for trial. In addition, with *dominus litis* (the prosecutor who determines the conduct of the proceedings), the prosecutor also acts as the only institution that executes court decisions, which is legally referred to as executive ambtenaar (Sari & Budiana, 2020). Many innovations within the framework of this system can be found in the Attorney General Regulation Number 15 of 2020 on the Termination of Prosecution Based on Restorative justice. This regulation gives prosecutors the authority to terminate prosecutions based on the principle of restorative justice. This approach has currently received considerable attention as a comprehensive and thorough resolution of criminal cases outside of conventional punitive methods. The restorative approach emphasizes constructive dialogue between the offender and the victim to achieve reconciliation and a fair resolution. Through psychological healing studies for victims and efforts to foster awareness and remorse among offenders, restorative justice regulates the process of resolving criminal cases. It strongly emphasizes the role of the Prosecutor's Response in achieving a more comprehensive and humane dimension of justice.

Based on Attorney General Regulation No. 15 of 2020, prosecutors may discontinue

prosecution if formal and material requirements are met. In the context of verbal sexual harassment, the role of the prosecutor's office is very strategic in ensuring that substantive justice is upheld even if the case does not proceed to trial. Although in principle this regulation is more geared towards dealing with minor crimes, its provisions still provide opportunities to terminate prosecution through a restorative justice approach, including through a mechanism of compensation for victims as a form of settlement. However, in cases of sexual violence, the application of termination of prosecution must be carried out very carefully and through in-depth evaluation, particularly by considering the psychological impact on the victim and ensuring that the victim gives their full and unpressured consent to the process (Samudra et al., 2025).

The prosecutor's authority to end prosecution through restorative justice is supported by a strong foundation, not only from the formal aspect of jurisdiction, but also supported by sociological and philosophical foundations to balance the conventional justice system centered on revenge (Ginting, et al., 2023). Prosecutorial Regulation No. 15 of 2020 clearly stipulates that the prosecution policy must respect religious, ethical, and moral standards in accordance with Article 1 letter a, and emphasizes the balance between the protection and interests of victims and offenders in accordance with Article 1 letter b (Prosecutor's Regulation No. 15 of 2020). Verbal sexual harassment violates fundamental moral standards in a blatant way, so prosecutors should use their discretionary authority to stop the prosecution with caution.

Prosecutors have the right to terminate prosecution through restorative justice and bear the ethical responsibility to comprehensively inform victims of the judicial consequences of reconciliation (Dewi, 2021). Out-of-court settlements have the potential to eliminate victims' guaranteed access to comprehensive protection and recovery rights as stipulated in Law No. 12 of 2022 on Sexual Violence Crimes. If the case is terminated, victims can no longer automatically claim their rights to restitution facilitated and guaranteed by the Witness and Victim Protection Agency, as well as their rights to free medical, psychological, and social recovery services as mandated by Article 67 of the Law on Sexual Violence Crimes. Thus, Prosecutors must prioritize formal litigation as the only mechanism that can activate and guarantee the fulfillment of the rights of victims of Sexual Violence Crimes in their entirety.

At the judicial level, judges play a crucial role. Their role goes beyond the formal ratification of peace agreements; they are continuators, independent administrators of the criminal process, and reviewers of the substantive integrity of the resulting agreements (Akadol & Aswandi, 2025). Philosophically, judges fulfill the primary mandate outlined in Law No. 48 of 2009 on the Authority of the Court. This law explicitly mandates judges to explore, analyze, and uncritically reflect on the legal values and meanings of justice that dynamically exist in society (Law No. 48 of 2009). Through their role, courts also have the role of considering restorative justice before issuing judgments especially when the legal process reaches the trial stage. Supreme Court Regulation No. 1 of 2024 explicitly mandates judges to balance the interests of victims' rights to restitution and the demands of the accused for accountability. This directive is in line with the provisions contained in Article 1 letter a of Supreme Court Regulation No. 1 of 2024 on Guidelines for

the Imposition of Sentences in Criminal Cases Based on Restorative justice.

Supreme Court Regulation No. 1 of 2024 emphasizes that judges must assess the extent to which the peace process has been conducted voluntarily and fairly, and whether the outcome truly restores the victim's condition. Article 3 of Supreme Court Regulation No. 1 of 2024 emphasizes that in applying restorative justice, judges must uphold principles such as restoration of the original conditions, protection of victims' rights, fulfillment of victims' needs and interests, accountability of the defendant, and the use of criminal punishment as a last resort that is voluntary, open, and accountable. The regulation also clarifies that restorative justice is not a mechanism to eliminate criminal responsibility. Although judges have the authority to apply restorative justice in certain cases, such as minor offenses with a maximum victim loss of IDR 2,500,000, criminal acts punishable by no more than five years in prison, cases involving children where diversion has been unsuccessful, and traffic violations categorized as crimes, its application cannot be enforced. Based on Law No. 48 of 2009 Article 5, judges must avoid this approach if the parties refuse to reconcile, there is an imbalance of power, or the defendant is a repeat offender, thereby ensuring that the justice process remains fair and voluntary.

In the context of verbal sexual harassment, the values of justice that exist in society often demand the restoration of dignity through the affirmation of strict criminal responsibility. Judges are required to have a high level of gender sensitivity and must critically ensure that the consent to settle in cases of verbal sexual harassment is genuine and arises from the free will of the victim (free consent). Constraints in the field, such as limited understanding and a lack of gender-sensitive mediation skills among law enforcement officials, can affect the integrity of the agreement (Akadol & Aswandi, 2025). If restorative justice is still considered, judges are required to maximize the content of the verdict. Based on Articles 18 and 20 of Supreme Court Regulation Number 1 of 2024, judges must ensure that the verdict explicitly includes compensation for non-material losses relevant to the victim's trauma.

Supreme Court Regulation No. 1 of 2024 reflects that the application of restorative justice in cases of verbal sexual harassment is not a mechanism to eliminate criminal liability, but can only be done under certain conditions. In this context, judges are expected not only to formally enforce the law, but also to express the values of justice that exist in society, in accordance with the mandate of Article 5 paragraph (1) of the Law on the Court. Judges should carefully carry out this process, taking into account the vulnerability of victims, ensuring that there is no element of coercion in the agreement, and making the recovery of victims a top priority in resolving cases, thereby supporting a more compassionate and community-based approach to justice. Therefore, judges play a strategic role in assessing the appropriateness of applying restorative justice to ensure substantive justice, protect the rights of victims, and prevent revictimization, especially in cases of verbal sexual abuse, which is often closely linked to social relationships and psychological pressure on victims. Indeed, in order to maintain legal certainty and accountability, judges may consider imposing conditional criminal sentences as a mechanism that confirms the guilt of the offender while facilitating the fulfillment of restorative obligations (Hibrawan, 2023).

Based on a comprehensive analysis of the highest regulatory foundations to technical regulations, namely Police Regulations, Prosecutor Regulations, and Supreme Court Regulations on the settlement of criminal cases based on the principles of restorative justice, the author is very counterproductive towards the application of restorative justice for verbal sexual harassment crimes with the aim of restoring victims, and philosophically, this could undermine the sense of justice that exists in society. Restorative justice fails conceptually because it focuses on material recovery for crimes whose losses are immaterial. The core losses from verbal sexual harassment are not financial, but rather the degradation of human dignity, psychological trauma, and the loss of the victim's sense of security. The discretion of law enforcement officials must be used strictly. When the integrity of trauma recovery and the guarantee of victims' rights in the Sexual Violence Criminal Law are potentially compromised, law enforcement officials must prioritize formal litigation as the primary mechanism for achieving substantive justice and full legal protection for victims, in accordance with the mandate of the Sexual Violence Criminal Law.

4. Conclusion

Based on a comprehensive legal-normative analysis of the philosophical and regulatory foundations of law enforcement agencies, it is concluded that the implementation of restorative justice for verbal sexual harassment crimes is substantively and philosophically inappropriate. Although verbal sexual harassment crimes can formally be categorized as meeting the requirements for restorative justice based on the technical regulations of law enforcement agencies, this unsuitability is rooted in fundamental contradictions. First, the harm caused by verbal sexual harassment crimes is dominated by psychological trauma, degradation of dignity, and immaterial losses. These losses cannot be adequately restored through material compensation or settlement agreements alone, which are the main focus of restorative justice mechanisms. Second, the application of restorative justice in cases of verbal sexual harassment carries a high risk of causing secondary victimization due to the potential for power imbalances in the mediation process, as well as directly potentially eliminating victims' guaranteed access to restitution and comprehensive recovery as guaranteed by Law No. 12 of 2022. Therefore, the discretion to terminate cases by the police, prosecutors, and judges must be placed under the highest mandate of Law No. 48 of 2009 concerning Judicial Authority to explore and uphold a sense of justice that exists in society. In the context of verbal sexual harassment crimes, this sense of justice demands the affirmation of strict criminal responsibility, making formal litigation a mechanism that must be prioritized in order to achieve substantive justice.

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