

The Effectiveness of Restorative Justice Implementation in Embezzlement Cases from a Progressive Law Perspective (Case Study: Polda Metro Jaya)

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Abstract. *The main principle of resolving criminal acts through a restorative approach is a resolution that must be able to penetrate the hearts and minds of the parties involved in the resolution process in order to understand the meaning and purpose of carrying out a recovery and the form of sanctions applied are sanctions that are restorative or preventive. The purpose of this study is to examine and analyze the implementation of restorative justice in embezzlement cases; to analyze the Effectiveness of the Application of Restorative Justice to Embezzlement Cases from a progressive legal perspective. The approach method used in this study is the sociological legal method. The results of this study are (1) The implementation of restorative justice in embezzlement cases at Polda Metro Jaya from a progressive legal perspective reflects efforts to realize more humanistic and substantive justice. In several embezzlement cases, such as those involving PSB and JS, the resolution process through mediation shows that this approach is able to create peace between the perpetrator and the victim by involving the return of losses, apologies, and commitments not to repeat the act. The principle of progressive law in this implementation, where the law is used as a tool to restore social relations damaged by criminal acts, not just to punish the perpetrator. The implementation of Restorative Justice is the *Ultimum Remidium* or the last resort in law enforcement that can be carried out by the Police in handling cases that can be resolved outside the courts. (2) The Effectiveness of the Implementation of Restorative Justice Against Embezzlement Cases from a progressive legal perspective at Polda Metro Jaya is determined by five main factors. First, the legal factor: Perpol Number 8 of 2021, needs to be harmonized with the Criminal Procedure Code to prevent legal uncertainty. Second, the law enforcement factor shows that the understanding and mindset of investigators must be more oriented towards recovery and reconciliation, not just punishment. Third, the means and facilities factor supports success by providing mediation space, documentation technology, and*

mediation skills training for investigators. Fourth, the community factor regarding differences in public perceptions of justice. Fifth, the legal culture factor shows obstacles in the form of a lack of understanding of the concept of restorative justice.

Keywords: *Embezzlement; Justice; Police; Restorative.*

1. Introduction

The opening of the 1945 Constitution of the Republic of Indonesia (UUD 1945) in the fourth paragraph states that the goals of the Indonesian state include protecting the Indonesian nation and all of Indonesia's territory. This goal must be interpreted as comprehensive protection for citizens, then in the articles in the body of the 1945 Constitution. In Article 28G Paragraph (2) of the 1945 Constitution, it is stated that "Everyone has the right to be free from torture or treatment that respects the state's human dignity and has the right to obtain political asylum and others". The protection referred to in the national goal must be given to all citizens without guarantee.¹

To realize the goal, the state must be present by providing protection for all citizens without conditions to fulfill their constitutional rights that have been regulated in the 1945 Constitution. Some constitutional rights owned by citizens, namely the right to life, the right to be free from threats, discrimination, and violence. This right is an important right to be implemented. The fulfillment of this right is also related to other constitutional rights, namely the right to protection and the right to justice which are important to emphasize their implementation in handling cases of sexual violence.²

One of the goals of the criminal justice system is to protect society from crime and serve people who are victims of crime. However, at the law enforcement level, victims are often neglected, where investigators do not act in the interests of the person reporting, but their attention is focused on public order, actions that endanger the environment and efforts to limit the sources of the emergence of such disorder.³

The reality of social life in society, in addition to law enforcement carried out by the criminal investigation function, it turns out that cases of violations of the law, at least those involving disputes between residents, are resolved informally by

¹Justisi Devli Wagiu, Legal Review of the Principle of Restorative Justice in Embezzlement Crime Cases, *Lex Crimen*, Vol. 4 No. 1, 2015, pp. 57-70

²Siahaan Maruarar, *Procedural Law of the Constitutional Court of the Republic of Indonesia*, Sinar Grafika, Jakarta, 2022, p. 35.

³Budiman (et. al), Optimizing the Implementation of Restorative Justice by Investigators in Handling Domestic Violence Crimes in the Jurisdiction of the Sukoharjo Police, *Advances in Police Science Research Journal*, Vol. 1, No. 5, 2017, pp. 1649-1700

social institutions or individual residents (neighbors) and even by police officers such as assault. Thus, a criminal act is not processed to the court stage.

The ultimate goal of this restorative concept is to reduce the number of prisoners in prison; eliminate stigma or labels and return criminals to normal humans; criminals can realize their mistakes, so they do not repeat their actions and reduce the workload of the police, prosecutors, prisons, courts, and community institutions; save state finances, do not cause resentment because the perpetrators have been forgiven by the victims, victims quickly get compensation; empower the community in overcoming crime; and reintegration of criminals into society.⁴

In realizing justice, it is very important to know the nature of a person who is a victim in a criminal case. According to Nils Christie, there are 6 (six) attributes to know the identity or self-identity of a victim of a particular crime, including: 1) "The victims are weak in relation to the offender, 2) The victim is, if not acting virtuous, then at least going about their legitimate, ordinary everyday business; 3) The victim is blameless for what happened; 4) The victim is unrelated to and does not know the stranger who has committed the offense; 5) The offender is unambiguously big and bad; 6) The victim has the right combination of power, influence or sympathy to successfully elicit victim status without threatening (and thus risking opposition from) strong countervailing vested interests."⁵

This restorative justice approach can be applied to the crime of embezzlement. At Polda Metro Jaya after the peace process has been successfully completed, the reporter then submits a letter of withdrawal of the complaint. Then, based on the peace and withdrawal of the complaint report, Polda Metro Jaya investigators follow up by conducting a case title to stop the investigation of the case.

The purpose of this study is to examine the implementation of restorative justice in embezzlement cases and to analyze the effectiveness of the application of restorative justice in embezzlement cases from a progressive legal perspective.

2. Research methods

The approach method used in compiling this journal is empirical legal research. The specifications in this study are descriptive analytical. The types and sources of data use secondary data. The data analysis used in this study is qualitative analysis.⁶

3. Research Results and Discussion

⁴Edwin Apriyanto, Implementation of Restorative Justice as a Form of Police Discretion in Resolving Fraud Cases at Semarang Police Headquarters, *Jurnal Spektrum Hukum*, Vol. 13, No. 1, 2016, pp. 55-72

⁵James Dignan, *Understanding Victims and Restorative Justice*, Open University Press-McGraw-Hill Education, Berkshire, 2005, p. 17.

⁶ Bambang Sunggono, *Legal Research Methodology*, Rajawali Press, Jakarta, 2010, p. 38.

3.1 Implementation Restorative Justice Against Embezzlement Cases in a Progressive Legal Perspective at Polda Metro Jaya

The settlement of a crime, at least refers to the principles and objectives of the law, and remains guided by the philosophy, constitution, juridical, wisdom and moral foundation of the nation. Indeed, the rampant crime must be responded to firmly and wisely and with consistent law enforcement, the community relies on law enforcement, but in fact prevention and eradication or handling must be simultaneous and comprehensive.⁷

In restorative justice, the balance of restoration between the perpetrator and the victim is demonstrated by the involvement of both in every legal decision taken so that the outcome of the case resolution is something that both parties truly desire.⁸Victims are involved in the process, while perpetrators are also encouraged to take responsibility for their actions, namely by correcting the mistakes they have made, either by apologizing, returning stolen money, or by doing community service. The concept of restorative justice is basically simple. The measure of justice is no longer based on the victim's equal retribution to the perpetrator (either physically, psychologically or punishment), but the painful act is healed by providing support to the victim and requiring the perpetrator to take responsibility, with the help of family and community if necessary.⁹

From the research conducted by the author at Polda Metro Jaya, the author obtained information from IPDA Dedy Darmalo Salomo, SH, MH on November 7, 2024 explaining that in resolving criminal acts, there are several types of cases that are in Restorative Justice and there are also cases where the resolution is through Litigation Settlement.¹⁰

In the Regulation of the Chief of Police Number 7 of 2008, Article 14 letter f stipulates that problem solving will be more effective in neutralizing problems other than the judicial or litigation path by implementing the ADR concept, for example, peace at the police level. Where one type of ADR through the intended peace efforts is penal mediation. In the Letter of the Chief of Police Number Pol: B / 3022 / XII / 2009 / SDEOPS, this is an effort to follow up on ADR in Article 14 letter f of the previous Chief of Police Regulation. This Letter of the Chief of Police further orders the police apparatus so that cases attempted through ADR are cases that are included in minor crimes. Until finally, the Police issued the Circular of the Chief of Police No. SE / 8 / VII / 2018. In the Circular Letter of the Chief of Police, the core of the settlement is where both parties, both the victim and the

⁷Bambang Waluyo, *Criminal Case Resolution: Implementation of Restorative and Transformative Justice*, Sinar Grafika, Jakarta, 2020, p. 3

⁸Hanafi Arief and Ningrum Ambarsari. *Application of Restorative Justice Principles in the Criminal Justice System in Indonesia*, Al 'Adl Journal, Vol. 10 No. 2, 2018. pp. 484-499

⁹Dessi Perdani Yuris Puspita Sari, (et. al.) *Application of Restorative Justice Principles in the Criminal Justice System in Indonesia*. *Sudirman Law Review*, Vol.4, No.2, 2022, pp. 105-119

¹⁰Results of an interview with IPDA Dedy Darmalo Salomo, SH, MH, as Investigator of Unit 4 Sub-Directorate II/Harda Ditreskrimum Polda Metro Jaya, on November 7, 2024

perpetrator, agree to resolve minor crimes by implementing peace and the perpetrator is willing to be responsible for the losses caused to the victim voluntarily and a letter of termination of the investigation or inquiry into the case itself will be issued because restorative justice has been signed by the Police.

As for LP/5858/XI/2017/PMJ/DRU dated November 29, 2017, with reporter PSB. with the case position as follows:

Alleged occurrence of criminal act of embezzlement, as referred to in Article 372 of the Criminal Code, which occurred in October 2016 to February 2017 in South Jakarta, allegedly committed by JS, carried out by the victim receiving money from the reporter where the purpose of sending the money was to pay for losses due to late payment of purchase of PT shares. IMP was agreed in stages, if in each stage the reporter could not fulfill his obligations then the reported party could automatically transfer 28% of the reporter's shares to the reported party's name, it is known that the transfer of 28% of PT shares. IMP has been transferred to the reported party's name based on the Deed of Statement of Decision Outside the General Meeting of Shareholders of PT. IMP (Change of Shareholders) No. 38 dated December 29, 2016 made before Notary Kartika, SH, MKn but the reported party was still asked to make payment for the loss of late payment until February 2017, due to this incident the reporter suffered a loss.

The results of the investigation are as follows:

Between the reporter, PSB, and the suspect, JS, there was an agreement to buy and sell shares of PT. IMP (IMP) in January 2015, with the reporter as the buyer and the suspect as the seller. The formal agreement was stated in an agreement dated June 19, 2015 with a value of Rp35 billion, payment was made after the legality of the company was transferred to the name of the reporter. In January 2016, the legality had been transferred to the reporter, who began to pay in installments until it was paid off in October 2016. However, the suspect refused to hand over full legality due to late payments that caused losses.

To resolve the dispute, in October 2016 a settlement agreement was agreed upon which stipulated that the reporter must pay a late fine of Rp13.375 billion in installments over one year. If the reporter failed to pay, 28% of the shares would be transferred to the suspect. In December 2016, the suspect transferred the shares without notifying the reporter, but continued to receive payments until February 2017. The reporter then became aware of the alleged embezzlement of Rp1.5 billion that the suspect had received without entitlement.

This case was reported to the police with LP/5858/XI/2017/PMJ/Ditreskrim, declared complete (P21) by the DKI Jakarta High Prosecutor's Office on November 29, 2017. However, in February 2024 there was peace between the reporter and the suspect, followed by the creation of a Peace Deed in March 2024 and the withdrawal of the police report in May 2024.

The results of the study show that the application of restorative justice in resolving criminal cases of embezzlement at Polda Metro Jaya is through a series of processes and stages as per the results of interviews with investigators handling the case as follows:

a. Mediation Process

Mediation is defined as a process of resolving disputes through negotiation or consensus in which the parties are assisted by a mediator who does not have the authority to decide or enforce a settlement. In this case, the mediator is the investigator from Polda Metro Jaya.¹¹

Before carrying out mediation, the Polda Metro Jaya first carried out an investigation process into the crime of embezzlement in office to find out the chronology of the crime. After achieving clarity from the incident, the mediation stage can be continued by bringing together the victim and perpetrator in a discussion forum to resolve the dispute peacefully, facilitated by Polda Metro Jaya investigators as mediators who play a role in bridging the victim and perpetrator. Polda Metro Jaya investigators also try to ask for help from the family to reconcile if necessary.

Based on the results of the interview with the source, namely the investigator at Polda Metro Jaya, it can be concluded that in order to resolve the crime of embezzlement, Polda Metro Jaya continues to strive to implement restorative justice as an alternative dispute resolution. In the process of resolving disputes between perpetrators and victims through peaceful means and deliberation and family, in this case Polda Metro Jaya is involved in the implementation of restorative justice with the legal basis of Article 18 paragraph 1 letter L which is expanded by Article 16 paragraph (2) of Law No. 2 of 2002 concerning the Republic of Indonesia National Police.

b. Peace Between the Two Parties

Investigators at Polda Metro Jaya as mediators certainly have a target that the results of mediation can realize peace from both parties between the victim and the perpetrator. Thus, it is clear that the role of investigators as mediators in resolving embezzlement cases is to facilitate victims and perpetrators in resolving conflicts and assist in making and formulating peace agreements.

Based on the results of interviews with several sources, it shows that the purpose of implementing restorative justice by Polda Metro Jayai through mediation as a settlement of embezzlement crimes is to create peace between the two parties. In reality, the victims are willing to take the peaceful path and forgive the perpetrators and stop reporting with the main condition that the perpetrators are willing to compensate for the losses experienced by the victims. So, researchers can conclude that peace between the two parties in the application of restorative

¹¹Hasan. Implementation of Restorative Justice in the Juvenile Criminal Justice System in Indonesia. *Journal of Law and Justice*, Vol. 2, No. 2. 2013. pp. 65-76

justice in the settlement of criminal acts by Polda Metro Jaya is a) the perpetrator must apologize to the victim directly; b) the perpetrator is willing to compensate for the losses experienced by the victim; and c) the perpetrator promises not to repeat the act of embezzlement.

c. Peace Agreement Letter

The Polda Metro Jaya as the mediator provided instructions so that the peace between the two parties is legally valid, it is necessary to make a Peace Agreement Letter made by the perpetrator's family which will later be signed by both parties and witnessed by Polda Metro Jaya investigators.

In Perpol No. 8 of 2021, in resolving criminal cases using a restorative justice approach, formal requirements must be met. This is as stated in Article 6 of Perpol No. 8 of 2021 which states the requirements, namely a) peace from both parties as evidenced by a peace agreement and signed by the parties, except for narcotics crimes; and b) fulfillment of the rights of victims and the responsibilities of the perpetrators in the form of returning goods, replacing losses, replacing costs incurred as a result of the crime and/or replacing damage caused by the crime. Proven by a statement letter in accordance with the agreement signed by the victim (except for narcotics crimes).

This means that if we look at its position, it is known that the peace letter in resolving restorative justice cases in criminal cases is a formal requirement for a peace to be accepted. This peace letter will later also be used as a requirement that must be attached to the Termination of Investigation or Investigation process as stated in Article 15 of Perpol No. 8 of 2021. Regarding the provisions of the contents of the peace letter, this is determined based on Article 6 paragraph 3 of Perpol Number 8 of 2021, namely a) returning goods; b) replacing losses; c) replacing costs incurred as a result of criminal acts; and/or d) replacing damage caused by criminal acts.

d. SP 3

The issuance of the Investigation Termination Order or SP3 by the police is a notification letter from the investigator that the case is being stopped. As previously discussed, to stop the investigation process of a case, for example in embezzlement in office, there must be a written request to stop the investigation made and signed by the parties addressed to the Kapolda Metro Jaya. The request letter is accompanied by a statement of peace agreement and evidence of the restoration of the victim's rights, such as in cases of fraud and embezzlement, evidence of the return of money or goods or other forms of compensation for losses experienced by the victim.

Next, Polda Metro Jaya investigators will conduct a complete examination of the application for termination of investigation submitted by the parties and conduct additional examinations and clarifications of the parties and are stated in the examination report. If the results of the document research, additional examinations, and clarifications of the parties have been fulfilled, the next stage

is to conduct a special case title, prepare a report on the results of the special case title, issue a letter of order to terminate the investigation and a letter of determination to terminate the investigation on legal grounds due to restorative justice, the public prosecutor will be notified of the implementation of the termination of the investigation by sending a letter of notification of the termination of the investigation accompanied by a letter of determination to terminate the investigation. After that, the suspect will be released and the confiscated evidence will be returned to those entitled.

The progressive legal theory according to Satjipto Rahardjo emphasizes that law is not a static set of rules, but a tool to achieve the goals of justice and happiness of society. In the application of restorative justice to the crime of embezzlement at Polda Metro Jaya, the progressive legal approach seems relevant because it emphasizes the substance of justice that prioritizes dialogue, recovery, and peace between the perpetrator and the victim. This process involves a deep understanding of social conditions and the real needs of the parties, which is in line with the principles of progressive law.

The implementation of restorative justice in Polda Metro Jaya shows a paradigm shift from a retributive legal approach that tends to punish the perpetrator, to a legal approach that focuses on restoring social relations. In the perspective of progressive law, the law does not always have to be resolved through the judicial mechanism, but can be pursued through dialogue that encourages reconciliation and recovery. Mediation efforts carried out by investigators to reconcile the perpetrator and victim reflect a more flexible, adaptive way of working of the law that prioritizes substantive justice rather than merely procedural justice.

Restorative justice also reflects the humanitarian values that are at the heart of progressive legal theory. In the implementation of restorative justice, victims and perpetrators are treated as human beings who have the right to be heard and respected, not just objects of the legal system. Perpetrators are given the opportunity to take responsibility for their actions through compensation and a promise not to repeat their actions. Meanwhile, victims receive not only material restitution but also emotional relief through apologies and direct dialogue. This process creates participatory justice and accommodates the real needs of the parties.

The implementation of restorative justice by Polda Metro Jaya implements the principle of progressive law that the law must be able to resolve problems holistically. This approach not only resolves the legal aspects of a crime, but also addresses the social impacts that arise. By involving families and communities in the mediation process, restorative justice shows that legal settlement is not isolated from the social context. This is consistent with Satjipto Rahardjo's view that the law must move dynamically to answer the needs of society that continue to develop.

3.2 The Effectiveness of Implementing Restorative Justice in Embezzlement Cases Progressive Legal Perspective at Polda Metro Jaya

Restorative justice is a settlement process carried out outside the Criminal Justice System by involving victims, perpetrators, victim supporters, perpetrator supporters and the community and parties interested in a crime that occurs to reach an agreement and settlement. Restorative justice is considered a new way of thinking/paradigm in viewing a crime committed by a human being. The concept of restorative justice has a basic understanding that crime is an act against a person or society and is related to violations as a violation of legal norms.¹²

The violations committed not only damage the legal order (law breaking) made by the state, but also damage the social order (society value). Criminal acts concern the interests of the wider community and the state, this opinion was put forward by Howard Zehr in 1990. Although criminal acts have damaged the social value order, the central or main problem of the criminal acts committed is that the violation must have been stated in the law of the state (legal state) and the action is declared a crime.¹³

According to the concept of restorative justice, handling crimes that occur is not only the responsibility of the state, but also the responsibility of society. The concept of restorative justice is built on the understanding that the losses caused by crime will be restored, both the losses suffered by the victim and the losses borne by society.¹⁴

The implementation of the restorative justice concept provides many opportunities for the community to play an active role in resolving criminal cases. The restorative justice concept has a framework in an effort to find alternative solutions to criminal cases that are carried out without criminal penalties. Alternative solutions are carried out as an effort to create humane justice.¹⁵ The settlement is carried out while still providing the rights of each perpetrator and victim in mediation as central to the implementation of restorative justice.

There are factors that influence the effectiveness of the implementation of restorative justice. regarding embezzlement cases from a progressive legal perspective at Polda Metro Jaya, are:

1. The legal factor itself (Law)

In the modern criminal law system, justice is considered to be given by making positive laws.¹⁶ This means that the estuary to obtain justice will be achieved if it has been accommodated in the level of rules or laws. Until this research was conducted, formal criminal law in Indonesia still uses Law Number 8 of 1981

¹²Marlina, Op.cit., p. 45.

¹³Ibid., p. 46.

¹⁴Ibid.

¹⁵Ibid., p. 46.

¹⁶FX. Adji Samekto. Justice Not For All (Critique of Modern Criminal Law in the Perspective of Critical Legal Studies). Genta Pres. Yogyakarta, 2008. p. 34.

concerning the Criminal Procedure Code which is a form of renewal of criminal procedure law from *Herzien Inlandsch Reglement (HIR)* and *Reglement voor de Buitengewesten (RBg)*, which covers the process of the Criminal Justice System (SPP) from the alleged occurrence of a crime to the implementation of the judge's decision.

At the investigation stage, the substance of Article 109 paragraph (2) of the Criminal Procedure Code can be a reference for the Police to carry out restorative justice in general, especially as a basis for terminating an investigation. Termination of an investigation can be carried out if it meets 3 (three) conditions, namely:¹⁷

- a. There is insufficient evidence;
- b. It is not a criminal act; and
- c. By law;

The reason for not having enough evidence to stop the investigation, the investigator should have sufficient initial evidence. According to sufficient, it can be classified into 2 (two) categories, namely a prerequisite for:

- a. Conduct investigations;
- b. Determining suspect status for someone suspected of having committed a crime.

However, the termination of investigation with a restorative justice approach is not expressly stated in the Criminal Procedure Code, so this can result in legal uncertainty and cause misinterpretation of restorative justice, that the paradigm of implementing the restorative justice mechanism is limited to the termination of investigation through the issuance of a Letter of Termination of Investigation (SP3) only, through Police Regulation Number 8 of 2021 as the basis for carrying out restorative justice by investigators.¹⁸

2. Law enforcement factors

The weakness in the application of restorative justice to embezzlement cases at Polda Metro Jaya can be seen from the mindset of law enforcement officers who are still oriented towards the traditional paradigm. Law enforcement officers, in this case the police, tend to measure the level of success of law enforcement based on the number of cases resolved through the courts. This mindset is contrary to the spirit of restorative justice, which should focus on restoring victims' losses, perpetrators' responsibility, and restoring social relations. This view, which is still oriented towards litigation, hinders the development of non-

¹⁷Christfael Noverio Sulung, Implementation of Restorative Justice Mechanisms at the Investigation Stage by the North Sulawesi Regional Police, *Journal of the Faculty of Law Lex Administratum*, Vol. XIII, No. 1, 2023, pp. 1-12

¹⁸Isyana Kurniasari Konoras, Termination of Investigation and Prosecution to Realize Restorative Justice, *Tumou Tou Law Review*, Vol. 2, No. 1, pp. 23-29.

litigation approaches such as restorative justice as an effective and humane alternative solution.

Lack of understanding of the concept of restorative justice among law enforcement officers is also an obstacle. When officers still view the court process as the only way to provide justice, the implementation of the reconciliation mechanism becomes less of a priority. As a result, cases that could actually be resolved peacefully by restoring the rights of the victims are still continued to the investigation or trial stage, even though this takes more time, money, and effort.

3. Factors of legal means and facilities that support law enforcement

The implementation of restorative justice in handling embezzlement cases at Polda Metro Jaya requires the support of adequate legal facilities and infrastructure. Facilities such as comfortable mediation rooms, information technology for documentation, and human resources trained in mediation and negotiation are important elements. The availability of these facilities ensures that the restorative justice process runs effectively and efficiently.

In an interview with IPDA Dedy Darmalo Salomo, SH, MH, Investigator of Unit 4 Subdit II/Harda Ditreskrimum Polda Metro Jaya, he emphasized the importance of training for investigators in implementing restorative justice. This training includes mediation techniques, understanding related laws, and effective communication skills. Thus, investigators can facilitate the mediation process between perpetrators and victims in a professional and fair manner.¹⁹

4. Community factors

Community participation, especially the families of the perpetrators and victims, is very influential in supporting the mediation process and the implementation of the agreements reached. In an interview with IPDA Dedy Darmalo Salomo, SH, MH, as Investigator of Unit 4 Subdit II/Harda Ditreskrimum Polda Metro Jaya, he explained that one of the challenges in implementing restorative justice is the attitude of the community which still tends to assume that justice can only be achieved through the formal justice process. "We often face situations where the families of the victims or perpetrators have the expectation that the maximum sentence must be applied, even though restorative justice actually offers a solution that benefits both parties,"²⁰

IPDA Dedy also emphasized that educating the public about the concept of restorative justice is very important. "The public needs to understand that this approach does not mean that the perpetrator escapes responsibility, but rather ensures that the victim's losses are restored and damaged social relationships can

¹⁹Results of an interview with IPDA Dedy Darmalo Salomo, SH, MH, as Investigator of Unit 4 Sub-Directorate II/Harda Ditreskrimum Polda Metro Jaya, on November 7, 2024

²⁰Results of an interview with IPDA Dedy Darmalo Salomo, SH, MH, as Investigator of Unit 4 Sub-Directorate II/Harda Ditreskrimum Polda Metro Jaya, on November 7, 2024

be repaired," He added that the role of community leaders or independent mediators is also very helpful in encouraging a more effective mediation process.²¹

5. Cultural factors

The lack of public understanding of the concept of restorative justice is also a factor that influences the legal culture related to case resolution. Many people still believe that justice can only be achieved through punishment in court, so they tend to be reluctant to accept solutions that are mediation or peace. This lack of understanding makes the public less supportive of the restorative justice process and, in some cases, actually complicates the reconciliation efforts carried out by investigators.

Based on the theory of legal effectiveness by Soerjono Soekanto, the application of restorative justice to embezzlement cases at Polda Metro Jaya shows several indicators that support its effectiveness, but there are still obstacles that need to be fixed. The effectiveness of the law can be seen from five factors: the law itself, law enforcement, facilities and infrastructure, society, and culture. In the context of restorative justice, these five factors interact with each other and influence the success of its implementation.

By considering these five factors, it can be concluded that the implementation of restorative justice in Polda Metro Jaya has not been fully effective. Although there have been supporting steps, such as legal basis and implementation of mediation, improvements are still needed in harmonizing regulations, increasing the capacity of officers, educating the public, and strengthening the legal culture. With improvements in these areas, the effectiveness of the implementation of restorative justice can be significantly increased.

4. Conclusion

The implementation of restorative justice in embezzlement cases at Polda Metro Jaya from a progressive legal perspective reflects efforts to realize more humanistic and substantive justice. In several embezzlement cases, such as those involving PSB and JS, the settlement process through mediation shows that this approach is able to create peace between the perpetrator and the victim by involving restitution, apologies, and commitments not to repeat the act. The principle of progressive law in this implementation, where the law is used as a tool to restore social relations damaged by criminal acts, not just to punish the perpetrator. By emphasizing dialogue, restitution, and peace, restorative justice at Polda Metro Jaya has succeeded in answering the need for justice for the parties involved, while reducing the burden on the conventional justice system. The implementation of Restorative Justice is the *Ultimum Remidium* or the last resort in law enforcement that can be carried out by the Police in handling cases that can be resolved outside the courts. The effectiveness of the implementation of

²¹Results of an interview with IPDA Dedy Darmalo Salomo, SH, MH, as Investigator of Unit 4 Sub-Directorate II/Harda Ditreskrim Polda Metro Jaya, on November 7, 2024

restorative justice at Polda Metro Jaya has not been fully effective, this is determined by five main factors. First, the legal factor of Perpol Number 8 of 2021 needs to be harmonized with the Criminal Procedure Code to prevent legal uncertainty. Second, the law enforcement factor shows that the understanding and mindset of investigators must be more oriented towards recovery and reconciliation, not just punishment. Third, the means and facilities factor support success by providing mediation space, documentation technology, and mediation skills training for investigators. Fourth, the community factor is about differences in community perceptions of justice. Fifth, the cultural factor shows that the obstacle is a lack of understanding of the concept of restorative justice.

5. References

- Bambang Sunggono, 2010, *Legal Research Methodology*, Rajawali Press, Jakarta,
- Bambang Waluyo, 2020, *Criminal Case Resolution: Implementation of Restorative and Transformative Justice*, Sinar Grafika, Jakarta,
- Budiman (et. al), *Optimizing the Implementation of Restorative Justice by Investigators in Handling Domestic Violence Crimes in the Jurisdiction of the Sukoharjo Police*, *Advances in Police Science Research Journal*, Vol. 1, No. 5, 2017,
- Christfael Noverio Sulung, *Implementation of Restorative Justice Mechanisms at the Investigation Stage by the North Sulawesi Regional Police*, *Journal of the Faculty of Law Lex Administratum*, Vol. XIII, No.1, 2023,
- Dessi Perdani Yuris Puspita Sari, (et. al.) *Application of Restorative Justice Principles in the Criminal Justice System in Indonesia*. *Sudirman Law Review*, Vol.4, No.2, 2022,
- Edwin Apriyanto, *Implementation of Restorative Justice as a Form of Police Discretion in Resolving Fraud Cases at Semarang Police Headquarters*, *Jurnal Spektrum Hukum*, Vol. 13, No. 1, 2016,
- FX. Adji Samekto. 2008. *Justice Not For All (Critique of Modern Criminal Law in the Perspective of Critical Legal Studies)*. Genta Pres. Yogyakarta,
- Hanafi Arief and Ningrum Ambarsari. *Application of Restorative Justice Principles in the Criminal Justice System in Indonesia*, *Al 'Adl Journal*, Vol. 10 No. 2, 2018.
- Hasan. *Implementation of Restorative Justice in the Juvenile Criminal Justice System in Indonesia*. *Journal of Law and Justice*, Vol. 2, No. 2. 2013.
- Iyana Kurniasari Konoras, *Termination of Investigation and Prosecution to Realize Restorative Justice*, *Tumou Tou Law Review*, Vol. 2, No. 1, 2023
- James Dignan, 2005, *Understanding Victims and Restorative Justice*, Open University Press-McGraw-Hill Education, Berkshire,
- Justisi Devli Wagiu, *Legal Review of the Principle of Restorative Justice in Embezzlement Cases*, *Lex Crimen*, Vol. 4 No. 1, 2015,

Siahaan Maruarar, 2022, *Procedural Law of the Constitutional Court of the Republic of Indonesia*, Sinar Grafika, Jakarta,