

Application of Restorative Justice in Handling Cases of Embezzlement and Fraud in the Jurisdiction of Serang City Police (Polresta)

Andi Adhyaksa Baharuddin Emilwan¹⁾ & Arpangi²⁾

¹⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: andiadhyaksabaharuddinemilwan.std@unissula.ac.id

²⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: arpangi@unissula.ac.id

Abstract. *Criminal acts of embezzlement and fraud are one type of crime against property that often occurs in Indonesia, including in the jurisdiction of the Serang City Police (Polresta). The implementation of Restorative Justice has begun to receive attention through various policies, including the Police Circular Letter Number 8 of 2018 concerning Restorative Justice. This policy provides guidelines for police officers to implement Restorative Justice. This policy provides guidelines for police officers to implement Restorative Justice in handling criminal cases, with the aim of reducing the burden of cases in court and accelerating the settlement process with a more humanistic approach and focusing on restoring social relations. The purpose of writing this thesis is to find out, review and analyze the implementation of restorative justice in handling criminal cases of embezzlement and fraud in the jurisdiction of the Serang City Police (Polresta). To find out, review and analyze the obstacles faced by the police in implementing restorative justice in handling criminal cases of embezzlement and fraud in the jurisdiction of the Serang City Police (Polresta) and their solutions. The implementation of Restorative Justice in handling criminal acts of embezzlement and fraud at the Serang City Police Department has shown positive developments, but still faces challenges such as lack of understanding from officers, perpetrators from outside the region, and the unpreparedness of several parties to reconcile. This hinders the resolution of cases in a restorative manner and reduces legal certainty.*

Keywords: Embezzlement; Justice; Restorative.

1. Introduction

In the life of the nation and state, security is a determining factor in the implementation of sovereign and authoritative governance, which is the main

requirement to support the realization of a just, prosperous, prosperous and civilized civil society based on Pancasila and the 1945 Constitution of the Republic of Indonesia. To realize domestic security, efforts are made by implementing the functions and roles of the police, whose duties are to maintain public security and order, enforce the law, protect, serve and serve the community by upholding human rights.¹

Article 1 (3) of the 1945 Constitution of the Republic of Indonesia is a state based on law. Indonesia as a country that upholds law and human dignity in relation to law and government must enforce the law without exception.²

Efforts to eradicate criminal acts are carried out through the criminal justice system. The criminal justice system or criminal justice system can be briefly interpreted as a system in society to overcome crime, so that it is still within the limits of community tolerance.³In general, in the criminal justice process, a person who has committed a crime will be investigated by the police if there is a complaint or if the person is caught red-handed committing a crime.⁴

One of the main tasks of the Indonesian National Police in realizing domestic security is stated in Law Number 2 of 2002 concerning the Indonesian National Police, namely law enforcement through the process of investigation and inquiry. Based on Article 1 paragraph (2) of the Criminal Procedure Code, the investigation is a series of efforts by investigators according to the methods regulated in the Law to seek and collect evidence of a crime which with this evidence makes clear the crime that occurred and to find who the suspect is.⁵Meanwhile, according to Article 1 paragraph (10) of the Police Law No. 2 of 2002, investigators are officials of the Republic of Indonesia National Police who are given the authority to carry out investigative efforts.⁶The investigation and inquiry process by the National Police investigators is the first entry point in law enforcement through the criminal justice system in Indonesia. The investigation process of a criminal case is the main key to determining whether or not a criminal case can be continued to the prosecution and criminal trial process.

¹HM Muclich, *Four Law Enforcers in Religious Spirit and Moral Cultural Messages, Sharia Study Program FIAI Islamic University of Indonesia*, Yogyakarta, 2012, p. 13

²Lailatul Nur Hasanah and Sri Endah Wahyuningisih, *The Application Of Justice Principles Of Rapid Simple Fee In Criminal Justice System In The State Court (Case Study in State court of Pati)*, *Jurnal Daulat Hukum* Volume 2 Issue 4, December 2019 ISSN: 2614-560X

³Rizky Adiyanzah Wicaksono and Sri Kusriyah, *Implementation Of Restorative Justice Approach In Legal Protection Against Lightweight Crime By The Children*, *Journal of Sovereign Law* Volume 1 Issue 4 December 2018 ISSN: 2614-560X

⁴Hadi Noor Cahyo and Maryanto, *Implementation Of The Settlement Of The Case Restorative Justice In Fights By Children Due To The Effect Of Liquor (Case Study In The Kudus Police)*, *Journal of Daulat Hukum* Volume 2 Issue 1, March 2019 ISSN: 2614-560X

⁵*Criminal Code and Criminal Procedure Code*, 2017, Jakarta: Buana Ilmu Populer, p. 229

⁶*Law Number 2 of 2002 concerning the Republic of Indonesia Police*, Citra Umbara Bandung, 2010, p. 4

The resolution of conflicts that occur in society can be done with two options, namely through litigation and non-litigation. The litigation path is a way to resolve problems through the Court, while non-litigation is a way to resolve problems outside the Court.

Satjipto Raharjo argues with his progressive legal theory that the law must be able to provide happiness to its people.⁷The basic essence of progressive law is that law is for humans, not humans for law. Law was created to achieve human welfare and happiness. The birth of Satjipto Raharjo's concept of progressive law began with his concern about the Indonesian legal state which has not yet realized a good legal life. According to B. Arief Sidharta, the character of progressive law adheres to conscience and rejects material slavery.⁸The reality so far, the law is understood only as a formulation of the law, then implemented merely by applying syllogism. Law enforcement officers are forced and even exist for the sake of safety, deliberately positioning themselves as mouthpieces of the law without any space and willingness to act progressively.⁹

In a state of law, the police are an important pillar in making legal promises a reality.¹⁰On the one hand, the police are required to enforce the law which means being bound by strict legal procedures, while on the other hand the police are officials who must maintain order. "Law" and "order" are two things that cannot always go hand in hand, where "law" bases its legitimacy on regulations, while "order" is based on sociology. When viewed from the perspective of legal sociology, the police can play several roles at once, namely as judges, prosecutors, and can even make laws.

In the Circular Letter of the Indonesian National Police Number 8 of 2018 concerning Restorative Justice, it is a guideline for police officers in handling criminal cases with a restorative justice approach. Restorative justice focuses on resolving criminal cases through mediation or negotiation between victims and perpetrators, with the main goal of achieving a fair settlement and prioritizing the restoration of relationships, not just punishing the perpetrators. This Circular Letter regulates the procedures and requirements for implementing restorative justice at the police level. One of the main principles contained in the circular letter is providing an opportunity for perpetrators of criminal acts to resolve peacefully by involving victims and other related parties, such as family or community leaders.

The implementation of the guidelines contained in this Circular Letter can also help Polresta Serang to adapt more quickly to the development of dynamic situations in the field. When a major incident occurs, this circular letter provides

⁷Satjipto Rahardjo, *Progressive Law Enforcement*, Kompas Media Nusantara, Jakarta, 2010, p. 37

⁸Romli Atmasasmita, *Integrative Legal Theory*, Genta Publishing, Yogyakarta, 2012, p. 86

⁹Zainudin Ali, *Sociology of Law*, Sinar Grafika, Jakarta, 2005, p. 11

¹⁰Satjipto Rahardjo, *Civil Police, In Social Change in Indonesia*, Kompas Book, Jakarta, 2002, p. xiii.

a clear legal and operational basis to ensure that the actions taken by Polresta Serang City members are not only appropriate, but also legally valid. Overall, Polri Circular Letter Number 8 of 2018 is one of the efforts to improve the professionalism of the Polri in carrying out their duties and functions in maintaining security and order in Indonesia.

The Serang City Police Department is directly confronted with the community that is regulated by law, so the police can become judges and so on, although all of that may be implemented in broad outline only. The police's job is to serve the community but by disciplining the community. These two things contradict each other. According to Satjipto Rahardjo, the police in the field exercise discretion, therefore if the general provisions are forced to be applied just like that to certain unique incidents, then the law can risk causing social unrest. Actually, the law does not plan to create such unrest, so police discretion is needed. With this police discretion, the law can find its meaning.¹¹

The development of criminal acts or crimes that are rampant in Polresta Serang, this is inseparable from the development of the era that is increasingly sophisticated so that it is possible that the mode of the perpetrators of the criminal acts themselves is also increasingly sophisticated, both in terms of thinking (mode) and in terms of technology. Crime in human life is a social phenomenon that will always be faced by every human being, society and even the State. The problem of crime is not a new problem even though the place and time are different but the *modus operandi* is considered the same. However, the lightness and severity of each threat of punishment does not prevent someone from committing a crime or violation. This is a problem in Polresta Serang because it does not mean a rule of law if the crimes committed by society cannot be followed by the rule of law itself, such as crimes by embezzlement which is one of the types of crimes against human property. Crime will not disappear by itself, on the contrary, crime cases are increasingly common and the most dominant is the type of crime against property, especially those included in the crime of embezzlement.

The crime of embezzlement is one type of crime against human wealth regulated in the Criminal Code (KUHP). Regarding the crime of embezzlement itself, it is regulated in the second book on crimes in Article 372 - Article 377 of the Criminal Code, which is a crime that often occurs and can occur in all fields, even the perpetrators in various levels of society, from the lower class to the upper class can commit the crime of embezzlement which is a crime that begins with a trust in others, and that trust is lost due to weak honesty.

Example of an investigation case against a police report with the Number: LP/B/387/XII/SPKT I. DITRESKRIMUM/2024/POLDA BANTEN, In December 2024,

¹¹Satjipto Rahardjo, *op.cit*, p. 11

a resident of Serang City named Febri (Samara) reported a person named Ade (Samara) as the reported party to the Banten Police on suspicion of embezzlement and fraud. In September 2024, the reporter was offered a 2019 white Honda HRV car by Mr. Ade for IDR 97,000,000, and the agreed price was Rp90,000,000. The reporter transferred the money on September 25, 2024. After payment, the reporter found out that the actual price of the car was Rp250,000,000. The reporter then asked for a refund, but was offered another car by Mr. Ade in the form of a 2018 Honda CRV 1.5 Prestige with a pawn system, with an additional transfer of IDR 82,000,000. The reported party guaranteed that the car was safe and had no problems. However, on December 23, 2024, the car was withdrawn by the leasing company CIMB Niaga Finance in Bogor due to 2 months of arrears. When asked to take responsibility, the reported party stated that the car was sold outright. The reporter suffered a loss of IDR 180,000,000 and reported it to the Banten Police SPKT.

The Banten Police transferred the handling of the case to the Serang City Police because the locus delicti (scene of the crime) and the domicile of some parties are within the jurisdiction of the Serang City Police. The Serang City Police investigators took penal mediation steps through a restorative justice mechanism, by bringing together the Reporting Party and the Reported Party in a forum facilitated by the Criminal Investigation Unit and accompanied by Bhabinkamtibmas and community leaders. In the restorative justice forum, the following points of understanding were conveyed: The Reported Party expressed an open apology to the Reporting Party, The Reported Party expressed a willingness to be materially responsible for the losses incurred, The Reporting Party stated that it was open to resolving the case peacefully, with the condition that the losses be returned in stages, The parties signed a peace agreement witnessed by the investigator, and known to the family and local community leaders.

Based on the results of restorative justice, investigators postponed further investigation processes and prioritized non-litigation resolution. As a follow-up, the Serang City Police issued a letter: Number: SPP.Lidik/37a/II/RES.1.11/2025/Reskrim February 2025 by: Serang City Police Criminal Investigation Unit.

The Serang City Police Department (Polresta) hopes that in the future, more cases can be resolved with a similar approach, so that it can reduce the burden on the justice system while creating better social order. Restorative Justice is also expected to become a new paradigm in handling legal cases in Indonesia. This approach emphasizes more on restoring social relations and justice for both parties.

2. Research Methods

Research method is a method of working to be able to understand the object that is the target of the relevant science. Method is a guideline for how a scientist studies and understands the environments that are understood.¹² While research is a way that is based on a systematic method and certain thoughts that aim to solve a scientific problem. In this study the author uses the following 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.¹³

3. Results and Discussion

3.1. Implementation of Restorative Justice in Handling Criminal Cases of Embezzlement and Fraud in the Jurisdiction of the Serang City Police (Polresta)

Restorative justice (restorative justice) is an approach to resolving criminal cases that emphasizes the restoration of losses suffered by victims, the responsibility of the perpetrator, and the active involvement of the community. Unlike the retributive approach that focuses on punishment, restorative justice encourages dialogue between the parties involved to reach a peaceful agreement, with the aim of restoring social relations damaged by the crime.

The application of restorative justice in the realm of criminal law in Indonesia is increasingly gaining ground, especially in dealing with cases that are relatively minor or with losses that are not too great, such as embezzlement and small-scale fraud. One approach that is the theoretical basis of this policy is the Theory of Progressive Law Enforcement initiated by Prof. Satjipto Rahardjo.

Satjipto Rahardjo stated that the law must breathe, not be rigid, and can be used to protect society substantively. Satjipto rejected law enforcement that was only fixated on procedural formalities without seeing the justice that lives in society.

Satjipto introduced the concept of law as a tool of social engineering, where law functions as a means to change society towards a more just and civilized direction, not merely a repressive mechanism.

According to Tri Daryanto, the Serang City Police (Polresta) investigator can issue a Letter of Order to Terminate Investigation (SP3) if a case meets the

¹²Soerjono Soekanto, Introduction to Legal Research, UI Press, Jakarta, 1986, p. 14.

¹³Rony Hanitijo Soemitro, Legal Research Methodology and Jurimetrics, Ghalia Indonesia, Jakarta, 1990, p. 34

requirements as regulated in the Criminal Procedure Code (KUHP). Based on Article 109 paragraph (2) of the Criminal Procedure Code, SP3 can be issued if:

- 1) There is not enough evidence.
- 2) The incident being investigated is not a criminal act.
- 3) The investigation is stopped by law (for example, the suspect has died, the case has expired, or there has been a court decision that has permanent legal force for the same case/*ne bis in idem*).¹⁴

The issuance of SP3 must be carried out professionally and transparently. The victim or reporting party can file a pretrial motion to the district court if they object to the issuance of SP3, as regulated in Article 77 letter a of the Criminal Procedure Code.

The progressive law enforcement theory according to Satjipto Rahardjo prioritizes a humanistic approach, namely that law enforcement is not solely carried out based on normative legal texts, but rather takes into account the values of substantive justice and the social conditions of society.

Cases of embezzlement (Article 372 of the Criminal Code) and fraud (Article 378 of the Criminal Code) are included in the types of criminal acts that are considered worthy of being resolved through a restorative justice approach, because they generally have a relationship of trust between the perpetrator and the victim and can be resolved with compensation. Both types of criminal acts often occur in personal relationships such as between relatives, co-workers, or in informal economic transactions, so that the resolution process that prioritizes peace and compensation is more rational than the formal criminalization process.

Regulates the mechanism for approval of investigators' superiors, as well as reporting the results of restorative justice to leaders and official documentation.

Restorative justice can be applied in cases of embezzlement and fraud with the following conditions:

- 1) Limited Losses: Embezzlement and fraud cases with losses that are not too large (for example, under IDR 2.5 million) are more likely to be resolved restoratively.
- 2) Non-Recidivist Offenders: Offenders who are not repeat offenders may be given a second chance within the framework of social rehabilitation.

¹⁴Interview with Brigpol Tri Daryanto, Investigator of the Serang City Police (Polresta) on May 9, 2025

3) **Victim Willingness:** The victim must be willing to participate in the mediation process and accept a peaceful resolution.

4) **Willingness of the Perpetrator to Take Responsibility:** The perpetrator must show remorse and be willing to repay the losses experienced by the victim.

A progressive legal approach allows investigators to use their authority to mediate between the parties, especially if the losses incurred can be compensated and the perpetrator shows good faith.¹⁵ Progressive law enforcement requires law enforcement officers who have moral courage and social sensitivity. This is because this approach prioritizes conscience and

This approach is in line with the local cultural values of Indonesian society, including in the Banten region, which prioritizes deliberation and peaceful resolution within the family. Therefore, the application of Howard Zehr's restorative justice theory not only brings renewal to law enforcement practices at the police level, but also contributes to the development of social justice and sustainable peace in society.

The Serang City Police Chief instructed all ranks to prioritize a restorative justice approach in handling certain cases in accordance with Police policy.:

- 1) Maximizing the use of restorative justice approaches
- 2) Selecting minor criminal cases such as embezzlement and fraud that are worthy of being resolved peacefully.
- 3) Avoiding overcriminalization of perpetrators who are not recidivists and commit crimes due to certain circumstances (e.g. economic factors).

The implementation of restorative justice by the police, especially in the jurisdiction of the Serang City Police Department (Polresta), is part of the fulfillment of Human Rights in law enforcement. By prioritizing the principles of justice, humanity, and participation, restorative justice guarantees the rights of victims and perpetrators to receive a fair legal process that is oriented towards recovery, not just punishment.

This policy aims to reduce the number of criminalizations, reduce the overcapacity of correctional institutions, and prioritize the recovery of victims' losses. In its implementation, the Serang City Police (Polresta) formed a team or restorative justice facilitator who has the ability to mediate penal. They are tasked with accompanying the peace process, ensuring that there is no coercion from any party, and producing a report of the agreement that can be used as a basis for terminating the case.

¹⁵Lilik Mulyadi, *Restorative Criminal Justice in Indonesia*, Jakarta: Prenada Media, 2011, p. 66.

Satjipto Rahardjo stated that law should not be viewed as something final and absolute, but rather as a process that continues to develop and must be adjusted to social change. Law enforcement in this perspective is not only about implementing applicable legal rules, but must also consider sociological conditions, values of social justice, and the concrete needs of the people. Law should not be a tool of repression or formal justification of injustice.

This theory provides intellectual legitimacy to alternative approaches to law enforcement, including in the context of criminal law. For example, in cases of embezzlement and fraud with small losses, the progressive legal approach encourages out-of-court settlements with the principle of restorative justice, in order to avoid excessive criminalization and more detrimental social effects.¹⁶

Analysis of the conformity between the Standard Operating Procedure (SOP) and the Regulation of the Republic of Indonesia Police Number 8 of 2021, especially in the implementation of restorative justice in criminal acts of fraud in the jurisdiction of the Serang City Police Resort (Polresta), it can be observed that there is a complementary relationship. The SOP that applies at the regional level shows a concrete effort in adjusting to national normative provisions, so that the implementation of restorative justice can run according to the principles and procedures that have been officially established.

3.2. Compliance of the Implementation of Restorative Justice in Criminal Acts of Fraud Between the SOP of the Serang City Police (Polresta) and Perpol No. 8 of 2021

The application of Zehr's theory in practice is also seen in the stages of penal mediation carried out by investigators at the Serang City Police Resort (Polresta). The parties are invited to a deliberation forum to negotiate a fair and satisfactory settlement for all parties. If an agreement is reached, the results of the deliberation are stated in the minutes, and the investigation can be officially stopped. This process shows that justice from a restorative perspective is more relational and dialogical, rather than coercive or repressive.

Howard Zehr's theory of justice is very relevant and applicable in cases of embezzlement and fraud in the jurisdiction of the Serang City Police Department (Polresta). In addition to helping reduce the burden of cases in the police and courts, this approach also encourages the birth of police policies that are oriented towards humanity, social justice, and reconciliation between citizens.

Imam Syafi'i in his book *Al-Umm* emphasizes the importance of fair treatment of all parties in every legal case. He emphasizes that the purpose of sharia law is to maintain five main principles (*maqashid sharia*): religion, soul, mind, lineage, and

¹⁶Lilik Mulyadi, *Criminal Justice in the Perspective of Theory and Practice of Justice*, Jakarta, Sinar Grafika, 2015, p. 120.

property. In the context of restorative justice, the aspect of safeguarding property (hifzh al-mal) becomes very relevant, especially in cases of embezzlement and fraud.

Imam Syafi'i stated in Al-Risala that justice is not only measured by the form of punishment, but also by the results. If punishment does not provide benefits and actually causes greater harm, then *ijtihad* can be carried out to find another form of resolution.

The author believes that this approach, if applied selectively, transparently, and with strict supervision, can be an alternative solution that prioritizes the restoration of social relations, compared to a retributive approach that focuses solely on punishment. The author argues that the implementation of Restorative Justice at the Serang City Police has shown quite positive results in several cases of embezzlement and fraud, especially those of small value and involving a peace agreement from the victim. However, it is necessary to emphasize the criteria for cases that can be resolved through this mechanism, so as not to cause injustice or the impression of impunity for the perpetrators.

3.3. Obstacles and Solutions Faced by the Police in the Implementation of Restorative Justice in Handling Criminal Cases of Embezzlement and Fraud in the Jurisdiction of the Serang City Police (Polresta)

1) Obstacles Faced in the Implementation of Restorative Justice in Handling Criminal Cases of Embezzlement and Fraud in the Jurisdiction of the Serang City Police (Polresta)

The implementation of the restorative justice approach in the criminal justice system in Indonesia is a manifestation of the transformation of the legal paradigm to be more humanistic, participatory, and oriented towards recovery. With the presence of the Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice, the Police are given a strong legal basis to resolve certain criminal cases through peaceful means without having to go through a formal judicial process. One form of implementation of restorative justice is applied in handling minor crimes to certain crimes such as embezzlement and fraud, as long as the substantive and procedural requirements are met.

In the jurisdiction of the Serang City Police Department (Polresta), efforts to implement restorative justice have begun to be implemented in several cases that meet the criteria. However, in its implementation, there are various challenges that are not easy. Various factors ranging from aspects of understanding of officers, technical readiness, to the dynamics of the relationship between the perpetrator and the victim are obstacles that often

arise.¹⁷ These obstacles are not only structural and procedural, but also sociological and psychological.¹⁸

It is important to identify and analyze in depth the various obstacles faced by Polresta Serang in implementing restorative justice, especially in cases of embezzlement and fraud. By understanding these obstacles, it is hoped that a policy strategy will be born that can strengthen the effectiveness of restorative justice as an instrument for resolving criminal cases that is more just and beneficial to the community.

According to Salahuddin, the obstacles faced in implementing Restorative Justice (RJ) in handling criminal acts of embezzlement and fraud in the jurisdiction of the Serang City Police (Polresta) include:¹⁹

a. Lack of Understanding of the Officers Regarding the Concept of Restorative Justice

The implementation of restorative justice in Polresta Serang City is the lack of in-depth understanding of the police apparatus regarding the philosophy, principles, and implementation of restorative justice. Some investigators still interpret restorative justice as a "peace process between the perpetrator and the victim", without understanding that this approach actually places the victim as the center of attention, emphasizes the responsibility of the perpetrator to restore losses, and rebuild damaged social relationships.

This lack of understanding has an impact on the suboptimal implementation of the Republic of Indonesia National Police Regulation Number 8 of 2021, especially in identifying cases that are worthy of being resolved through restorative justice and in carrying out the mediation process professionally and in accordance with the principles of law enforcement. Law enforcement officers need to be given comprehensive special training so that they are able to distinguish when restorative justice is appropriate to be applied and how the implementation mechanism is oriented towards law enforcement.

b. The perpetrators came from outside the area

The different origins of the perpetrators as an obstacle in the implementation of restorative justice One of the major challenges in the implementation of restorative justice in embezzlement and fraud cases in the jurisdiction of the Serang City Police (Polresta) is when the perpetrators come from outside the region, even from outside Banten Province. The long geographical distance

¹⁷Yenti Garnasih, "Obstacles to the Implementation of Restorative Justice in the Police", *IUS Law Journal*, Vol. 10 No. 1, 2022, p. 99.

¹⁸Siti Musarrofah, "Sociological Aspects in the Implementation of Restorative Justice", *Jurnal Juridical*, Vol. 8 No. 2, 2021, p. 241.

¹⁹Op Cit, Interview with Kompol Salahuddin, S.Sos M.Si

makes it difficult for investigators to present the perpetrators directly in front of the victims, investigators, and restorative justice facilitators, so that the mediation process and preparation of peace documents cannot be carried out optimally.

c. Not All Parties Are Willing to Make Peace

Not all parties are willing to handle criminal acts of embezzlement and fraud in the jurisdiction of the Serang City Police Resort (Polresta). Restorative Justice in cases of embezzlement and fraud in the Serang City Police Resort area is the unwillingness of one or both parties, both the victim and the perpetrator, to follow the peaceful resolution mechanism. Restorative justice in principle emphasizes the voluntary participation of all parties involved, including the perpetrator, victim, their family, and relevant community parties.

Investigators noted that the unwillingness to reconcile with the perpetrator's inability to fulfill the victim's demands caused the failure of the preparation of the Peace Agreement Minutes. As a result, the restorative justice process had to be stopped and the case was re-handled litigatively through the criminal justice system. This shows that without distributive justice and compromise from both parties, the restorative justice approach is difficult to implement optimally.

d. The perpetrator is a repeat offender

Restorative Justice in handling embezzlement and fraud cases in the jurisdiction of the Serang City Police is when the perpetrator is a recidivist or has repeatedly committed similar crimes. In this context, investigators face a dilemma between efforts to restore relations between the perpetrator and the victim through restorative justice with the need to provide a deterrent effect for perpetrators who repeatedly violate the law.

According to the law enforcement theory put forward by Satjipto Rahardjo, law enforcement is not only a matter of implementing regulations rigidly (law in the books), but also includes aspects of substantive justice and social conditions of society (law in action). In recidivists, law enforcement must consider whether the application of restorative justice will be effective in preventing re-crime or actually weakening the deterrent power of the law. Law enforcement in this case must be progressive, not merely punishing, but providing protection to the wider community from the risk of recurrent crime.

3.4. The Solution Faced in the Implementation of Restorative Justice in Handling Criminal Cases of Embezzlement and Fraud in the Jurisdiction of the Serang City Police (Polresta)

The application of restorative justice in handling criminal cases, including embezzlement and fraud, has become a promising alternative approach in the

modern criminal justice system. Although the Serang City Police (Polresta) has adopted the principles of restorative justice as stipulated in the Republic of Indonesia Police Regulation Number 8 of 2021, the reality on the ground shows that there are various complex and multidimensional challenges. Obstacles such as the lack of understanding of the officers regarding the concept of restorative justice, the perpetrators coming from outside the area, not all parties willing to reconcile, the perpetrators are recidivists often hinder the achievement of the main objectives of restorative justice, namely participatory recovery and conflict resolution.

Every obstacle certainly contains potential solutions. Identification of the obstacles that arise is actually the starting point for formulating a more adaptive and responsive improvement strategy to field needs. Therefore, it is important to formulate solution steps that are not only normative, but also realistic and applicable. This approach must pay attention to legal, sociological, administrative, and psychological aspects in order to create a more just, humanistic, and efficient law enforcement ecosystem.

According to Kompol Salahuddin, the solutions that can be implemented by the Serang City Police to overcome obstacles in implementing restorative justice are:²⁰

a. Lack of Understanding of the Restorative Justice Concept by Officials

The solution to this problem is the need for intensive and ongoing training for investigators regarding the philosophy, indicators, and technical procedures of restorative justice. Salahuddin suggested that the Serang City Police institution collaborate with academics, legal NGOs, and accompanying prosecutors to compile a case study-based training module, so that investigators not only understand restorative justice theoretically but can also apply it contextually in real cases. It is also important to form a special unit or restorative justice coordinator at the Polresta level whose duties include supervising, assessing the feasibility of implementing restorative justice in each case, and ensuring that the mediation process is carried out neutrally, transparently, and does not conflict with the principles of criminal law or the rights of victims.

b. The perpetrators came from outside the region

The solution that can be done to this obstacle is to improve coordination between police across regions, especially between the Serang City Police and the police unit where the perpetrator is domiciled. In this case, the use of long-distance communication technology such as video conferencing can be an alternative to bring together perpetrators and victims in the restorative justice mediation process without having to be physically present. In addition, there

²⁰Lok Cit, Interview with Kompol Salahuddin, S.Sos M.Si

needs to be strengthening of administrative mechanisms in handling cross-jurisdiction, such as the preparation of SOPs (Standard Operating Procedures) related to restorative justice between regions, which are adjusted to the provisions of Perpol Number 8 of 2021.

c. Not All Parties Are Willing to Make Peace

To overcome the unwillingness of one party (especially the victim) to undergo the restorative justice mechanism, a humanistic approach and socialization of the benefits of restorative justice must be encouraged from the start. Investigators, prosecutors, and facilitators need to clearly convey that restorative justice does not mean releasing criminal responsibility carelessly, but rather providing space for recovery by considering the rights of the victim, the responsibility of the perpetrator, and the interests of society.

d. The perpetrator is a repeat offender

solution, law enforcement officers need to examine more deeply the background of the perpetrator's recidivism: whether due to economic needs, ignorance of the law, or other sociological factors. If the reason for recidivism is not due to acute criminality, then the restorative justice process can still be considered with strict conditions, such as strict post-mediation supervision, concrete restitution, and a statement of responsibility.

Solution: Increasing the understanding of officers about restorative justice needs to be done through comprehensive technical and non-technical training, including understanding the legal basis of restorative justice such as Police Regulation Number 8 of 2021 and Supreme Court Regulation Number 1 of 2024. The training must cover philosophical, legal, and procedural aspects in the application of restorative justice, as well as communication and mediation skills needed to handle interactions between perpetrators, victims, and the community in a humane manner.²¹

Solution, it is important for the police to strengthen coordination between regional units (Polres to Polda) to facilitate the presence of the perpetrator. Through the mechanism of administrative assistance or cross-regional investigation back-up, police officers in the area where the perpetrator lives can help speed up the summons or mediation process.

The solution, Polresta Serang City can facilitate the pre-mediation process which aims to provide an understanding to both parties about the benefits of restorative justice, while building trust between the perpetrator, victim, and mediator. The role of investigators, Bhabinkamtibmas, and community leaders is

²¹Bambang Poernomo, *Principles of Criminal Law and Their Application in the Criminal Justice System*, Yogyakarta, Liberty, 2020, p. 145.

very important to carry out a persuasive approach to the parties so that they are willing to open a space for dialogue.²²

The author argues that to overcome this problem, it is necessary to increase the capacity of understanding and training for law enforcement officers regarding the concept and techniques of restorative justice, as well as the establishment of a more efficient coordination mechanism between jurisdictions. In addition, the author also suggests that more socialization be carried out to the community regarding the benefits of restorative justice, both for victims, perpetrators, and the community as a whole, to increase the willingness of related parties to actively participate in resolving cases.

4. Conclusion

The implementation of Restorative Justice in handling cases of embezzlement and fraud in the jurisdiction of the Serang City Police (Polresta) has shown positive developments, but still faces a number of significant challenges. Conceptually, Restorative Justice is based on a justice approach that emphasizes the restoration of relations between perpetrators, victims, and the community. This is in accordance with the mandate of the Republic of Indonesia National Police Regulation (Perpol) Number 8 of 2021 which is the main legal basis for the implementation of Restorative Justice in the police environment.

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