

Formulation of Police Authority Regulations in Resolving Criminal Acts Through Restorative Justice Mechanism (Case Study at Police Police Plan)

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Abstract. *The police have the authority to resolve cases since reports or complaints from the public about alleged criminal acts or when they directly find an event that is suspected of being a violation of the law. One of the structural and normative problems in the Indonesian criminal justice system is the lack of regulations governing the police's ability to resolve criminal acts through the restorative justice mechanism. The focus of the study will be centered on the formulation of the problem, namely: How is the regulation of the police's authority to resolve criminal acts through the restorative justice mechanism?, What are the weaknesses of the regulation of the police's authority to resolve criminal acts through the restorative justice mechanism?, and How is the formulation of the regulation of the police's authority to resolve criminal acts through the restorative justice mechanism in the future?. The purpose of this study is to analyze the regulations, weaknesses in implementation, and the formulation of the regulation of the police's authority to resolve criminal acts through the restorative justice mechanism. The type of research is included in qualitative with a sociological juridical approach so that it prioritizes primary data and secondary data. Primary data is obtained from field observations and secondary data is obtained from literature studies. Specifically, the authority of Restorative Justice is specifically regulated in the Regulation of the Republic of Indonesia National Police (Perpol) Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice. This authority includes, humanistic investigative functions, applying the principles of speed, simplicity, and low cost, encouraging social participation, implementing special case titles, and officially terminating investigations (SP3).*

Keywords: Authority; Criminal; Justice; Restorative.

1. Introduction

Various criticisms and expressions of public dissatisfaction with law enforcement, especially that carried out by the National Police institution above, reflect that law enforcement that has been used by the National Police has not been felt positively in terms of benefits, legal certainty, and a sense of justice for the community. Continuous criticism is always directed at the professionalism of the National Police's performance in carrying out its main duties as law enforcers. Especially if investigators take coercive measures in the form of detention in cases that are deemed unnecessary for legal actions in the form of coercive measures. This criticism is also related to the fact that the law is generally not a good solution to problems, and tends to have negative side effects, especially in terms of the impact on the results of imprisonment.

Law enforcement carried out using formal justice methods in the form of repressive police actions which are then continued with the legal litigation process, will generally end in a win-lose or lose-lose situation. The end of the litigation process will only result in the perpetrator being punished for his actions, while the restoration of the victim's rights and the physical and psychological losses suffered by the victim due to the incident cannot be fulfilled. The form of punishment currently used can also be said to not provide a deterrent effect for lawbreakers. The criminal justice system which has been supported by the doctrine and theory of the deterrent effect is no longer effective for use in the problem-solving process, this situation encourages handling problems through informal mechanisms (misdemeanor) by involving third parties as facilitators in order to carry out victim-offender Reconciliation and or Alternative Dispute Resolution which is more beneficial for the various parties concerned. In addition, the large number of cases being backlogged by the police has caused a case to take longer to be resolved and ultimately led to the failure to fulfill legal certainty.

Likewise with the current conditions where prisoners or detainees who enter with various criminal cases have made correctional institutions/detention centers over capacity and not ideal, so that it has an impact on the emergence of criminal acts within the correctional institution/detention center environment itself, for example drug abuse, gambling, forms of violence or abuse, theft, fraud and many other criminal acts. Currently, society needs law enforcement that accommodates interests and resolves problems fairly and accommodates the aspirations of the will of the community itself, especially the interests of the recovery of victims who have been the disadvantaged party and have not received attention. The implementation of law enforcement duties by the Police at the level of practice in the field, in addition to law enforcement that prioritizes formal law, is also faced with taking other policies with various considerations in law enforcement in the form of non-formal ones that are oriented towards

community justice. This is what underlies the idea of carrying out restorative justice or implementing restorative justice in the realm of the Police in investigation and investigation activities.

The current practice of criminal law enforcement, especially in the Police, in order to accommodate the implementation mechanism of restorative justice, under the leadership of the Chief of Police Listyo Sigit Prabowo, Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice was born. The handling based on Restorative Justice is exempted for disturbing criminal acts, acts of terrorism, state security, corruption, repeat crimes and crimes against people's lives. The presence of Police Regulation No. 8 of 2021 concerning Restorative Justice provides space for members of the Police in the Investigation Unit to resolve cases faster and provide normative guidelines in acting to resolve criminal cases using the restorative justice method. In terms of handling cases as determined by Police Regulation No. 8 of 2021, it can be seen that when there is a complaint report related to cybercrime, that is when restorative justice is attempted. However, in its implementation, restorative justice is carried out in all initial stages of criminal proceedings, from investigation to inquiry.

One of the legal efforts made by the Pandeglang Police investigators through the restorative justice mechanism is an alleged embezzlement of a motorcycle carried out by MT as the reported party. The alleged embezzlement of the motorcycle was due to the urgent need for medical treatment for MT's parents in the Cribon area. Based on this information, the case was resolved amicably, because the motorcycle had not been sold or pawned. In addition, it is also known that MT is an employee of the reported party who has worked for 3 years.¹

2. Research Methods

Methodology in a research serves to provide guidelines for scientists on how to study, analyze, and understand the environment they face. Methodology is an absolute element that must be present in research and development of science. The type of research to be conducted is included in the category of qualitative research, the meaning of qualitative research is a type of research that produces findings that cannot be achieved by statistical procedures or other quantitative methods. Qualitative research is also called naturalistic research, called natural because the research field situation is natural or reasonable, without manipulation, regulated by experiments or tests.² This research examines

¹ MenaraToday.com, Pandeglang Police Conduct Restorative Justice for Motorcycle Theft Between Child and Adoptive Parents, (online), uploaded on January 7, 2025, (<https://www.menaratoday.com/2025/01/polres-pandeglang-lakukan-restorative.html?m=1> accessed on 18 February 2025).

² Pupu Saeful Rahmat, Qualitative Research, EQUILIBRIUM Journal, Vol.5, No.9 June 2009, page8.

relatedkPolice authority in resolving criminal acts through restorative justice mechanisms. Especially for criminal law problems that occur in the jurisdiction of the Pandegelang Police, Banten Province.

3. Results and Discussion

3.1. Regulation of Police Authority in Resolving Criminal Acts Through Restorative Justice Mechanisms.

The police have the authority to resolve cases from reports or complaints from the public about alleged criminal acts or when they directly discover an event that is suspected of being a violation of the law. According to Article 13 of Law Number 2 of 2002 concerning the Indonesian National Police, this authority includes receiving reports, conducting investigations and inquiries, and seeking to resolve cases both repressively and preventively. When a case meets the requirements to be resolved peacefully, namely when the perpetrator and victim are willing to reconcile, does not have a broad impact on society, and does not involve serious crimes, this authority is given in the context of restorative justice. This authority shows the function of the police as law enforcers, who are also tasked with maintaining justice and social balance.

Police authority must exist because it provides a legal and functional basis for the police to maintain security, enforce the law, and protect and serve the community. If the police do not have clear authority, their actions can be considered excessive, arbitrary, or even ineffective in dealing with violations of the law and social conflicts. In addition, it is very important for the police to set their limits and responsibilities in acting to provide legal certainty and accountability. This authority allows the police to use a non-punitive approach that is more humane and in accordance with the needs of the community in the context of restorative justice. In other words, authority is not only power but also legitimacy and professionalism in maintaining proportional and fair order. Authority is interpreted as the right to carry out an action or give orders for others to do or not do something in order to achieve a certain goal.³

Restorative justice is “a process by which all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future.” In other words, Tony Marshall (1999) describes restorative justice as a process by which all parties with a stake in a particular offence come together to decide how best to deal with the aftermath of the offence. The offender is asked not only to serve his sentence, but also to take responsibility for the consequences for the victim and his social environment.⁴

³ Kamal Hidjaz, Op.Cit. P. 35.

⁴ Tony F. Marshall, Op. Cit. Pg. 5.

Restorative justice in the Police is a method of resolving criminal cases that focuses on the restoration of victim losses, the accountability of the perpetrator, and active community involvement. Based on the Regulation of the National Police of the Republic of Indonesia Number 8 of 2021, the police have the authority to apply this principle when handling minor crimes or those that do not cause widespread conflict. The police usually help perpetrators and victims reach a just and proportional peace agreement without having to continue the case to court. This method is considered more humane and effective, and supports the goals of the law that not only emphasize punishment but also prevent recidivism and restore social relations. However, without a solid and firm legal basis, the restorative justice process has the potential to lose legitimacy and substantial justice, especially if it does not receive good supervision.⁵

Meanwhile, if reviewed, the authority of the police in Restorative Justice refers to the ability and duties of the Indonesian National Police institution to resolve criminal cases through a peaceful approach between the perpetrator and the victim, not solely through the formal judicial process. This authority is specifically regulated in the Regulation of the Indonesian National Police (Perpol) Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice. In more detail, this authority includes:

1) Humanistic Investigation Function

Within the framework of Restorative Justice, the Police are given the authority to stop the legal process of a criminal case if a peace agreement has been reached between the perpetrator and the victim, as long as it meets certain criteria such as the nature of the crime is light, there is no public unrest, and the perpetrator has never committed a crime before. This is regulated in Police Regulation Number 8 of 2021 which is the legal basis for the restorative justice-based criminal settlement approach. In the case at the Pandeglang Police, where an adopted child took his adoptive father's motorbike without permission, investigators considered that this case was personal, did not cause social unrest, and there was an apology and reconciliation between the perpetrator and the victim. Therefore, the case was not continued to the prosecution stage, and the legal process was stopped. This step reflects the humanistic function of investigation, which does not merely pursue punishment, but also considers aspects of justice, humanity, and restoration of social relations.

2) Implementing the Principle of Fast, Simple, and Low Cost

Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice stipulates the principle of fast, easy, and inexpensive restorative justice in the case of

⁵ A. Wahyuni, Op.Cit. Pg. 38–50.

motorcycle embezzlement handled by the Pandeglang Police. The purpose of this principle is to resolve criminal cases quickly without going through a long and difficult legal process. In this case, the settlement was carried out through mediation between the perpetrator and the victim, leading to a peace agreement. This step avoids both parties from the formal judicial process, which requires more time and money. This method also avoids adding to the burden on the criminal justice system and correctional institutions. As reported, the police have resolved more than 15,000 cases through restorative mechanisms since Regulation Number 8 of 2021.

3) Encouraging Social Participation

The police can involve religious figures, the community, and the families of the perpetrators and victims in the mediation process to achieve a more comprehensive and sustainable resolution in the context of restorative justice. Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice stipulates this rule. According to Article 12 of the Regulation, the reporter and/or the reporter's family, the reported party and/or the reported party's family, as well as representatives from the community, religion, traditional figures, or other stakeholders can attend a special case title during the restorative justice process. The restorative justice approach was used in a case handled by the Pandeglang Police where an adopted child took his adoptive parents' motorbike without permission. This approach involves mediation between the two parties.

4) Carrying out Special Case Titles

The police must establish a special case title as an important step in restorative justice practices before stopping the investigation of a case. Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice stipulates this rule. The purpose of a special case title is to ensure that formal and material requirements have been met to allow for restorative resolution of the case. The crime must not cause public unrest, not cause social conflict, and not include serious crimes such as terrorism or corruption. Meanwhile, formal requirements include a peace agreement between the perpetrator and the victim signed by both parties.

5) Officially Terminating Investigation (SP3)

The police can stop the investigation of a case by issuing a Termination of Investigation Order (SP3) in the context of restorative justice if a peace agreement has been reached between the perpetrator and the victim and if certain conditions are met. Regulation of the National Police of the Republic of Indonesia Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice stipulates this rule. In the case of motorcycle embezzlement handled by the Pandeglang Police, the restorative justice process was carried out

after the perpetrator and victim, who were related as child and adoptive parent, agreed to resolve the problem amicably. The victim apologized and asked for forgiveness after the perpetrator admitted his mistake. Based on the procedures stipulated in Perpol No. 8 of 2021, SP3 officially stops the investigation, although media reports do not explicitly mention it.

In the case of resolving cases through restorative justice by the Pandeglang Police, the three main sources of administrative law are attribution, delegation, and mandate. As indicated by Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice and Law Number 2 of 2002 concerning the Police, contribution is the granting of direct authority by law. This means that the police legally have the authority to resolve cases peacefully in certain situations. However, in reality, this mechanism is usually used by handing over authority to investigators who are responsible by the leadership, such as the Chief of Police. In addition, mediation investigators can also work on a mandate basis by carrying out work on behalf of their superiors while the responsibility for the decision remains. As indicated by Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice and Law Number 2 of 2002 concerning the Police, contribution is the granting of direct authority by law. This means that the police legally have the authority to resolve cases peacefully in certain situations. However, in reality, this mechanism is usually used by handing over authority to investigators who are responsible for the leadership, such as the Chief of Police.

3.2. Weaknesses of Police Authority Regulation in Resolving Criminal Acts Through Restorative Justice Mechanisms.

According to Article 1 Paragraph 3 of the 1945 Constitution of the Republic of Indonesia (UUD 1945), "The State of Indonesia is a state of law." Every aspect of national, state, and social life must be based on applicable law. Because there is no absolute power, human rights are guaranteed, the government is open and accountable, the judiciary is free and impartial, and all parties, both the people and the government, must be subject to the law. Therefore, the existence of law is the main basis for realizing justice, order, and legal certainty for citizens as a whole.

One of the case resolution processes, namely through the restorative justice process, is an alternative to the formal justice system that emphasizes restoring relations between the perpetrator, victim, and community. This process begins by determining the eligible cases, such as minor crimes or non-recidivists, and evidence that the perpetrator and victim are willing to reconcile. The police then conduct mediation by involving related people such as people in the community, family, or traditional institutions. If there is a peace agreement, a letter of agreement will be made and signed by both parties. In connection with Perpol Number 8 of 2021, investigators then conduct a special case title to ensure that

formal and material requirements have been met. A Letter of Order to Terminate Investigation, or SP3, is issued after approval. This method increases effective and humane justice while reducing the burden on the judiciary and the possibility of recidivism.

A criminal act or crime occurs when there is an intention within an individual or group to commit a crime.⁶This intention is realized concretely with the existence of opportunities or supporting factors, including factors from a complex environment and factors from individuals who have the potential to become victims, which is one of the factors that causes criminal acts to occur. However, Indonesia is already a country of law, so the 1945 Constitution of the Republic of Indonesia tends to assess people's actions in accordance with applicable laws, including criminal acts, of course the perpetrator or person who commits the act is responsible for the act in accordance with applicable laws or positive Indonesian law.⁷

In a philosophical context, the Restorative justice approach in criminal law does not aim to abolish or merge criminal and civil law. Instead, this approach prioritizes the mediation path between the victim and the perpetrator, returning the function of criminal law to its original position, like a final weapon.⁸The Restorative Justice approach offers an alternative solution to a number of problems facing the criminal justice system, such as complicated, lengthy and expensive judicial administration processes, case backlogs, or court decisions that do not take the interests of victims into account.

The case resolution system through restorative justice offers a more humane solution and prioritizes reconciliation between perpetrators and victims, there are always weaknesses or shortcomings behind the advantages. The ability to reduce the burden on the justice system by resolving cases faster and at a lower cost is its main advantage. However, its weakness lies in the inability to guarantee equal justice because not all parties are equally involved in the mediation process, and sometimes the results can be influenced by external factors, such as social or economic pressures. In addition, the success of restorative justice depends heavily on all parties, including perpetrators, victims, and the community, being ready to undergo a fair and non-violent reconciliation process. There are additional problems with accountability and transparency of the process.

One of the structural and normative problems in the Indonesian criminal justice system is the lack of regulations governing the police's ability to resolve crimes through restorative justice mechanisms. Police Regulation Number 8 of 2021 has

⁶ Moelyatno and Adami Chawawi, *Criminal Law Lesson 3, Trial & Conviction* (Raja Grafindo Persada, 2002).Pp 164-165.

⁷ Soerjono Soekanto, *Factors Influencing Law Enforcement* (Raja Grafindo Persada, 2007).Page 5.

⁸ Syahrizal Abbas, *Mediation* (Kencana, 2011).Page 6.

been made by the Indonesian National Police, but there are still several obstacles to its implementation. In the case reported by the Pandeglang Police through the restorative justice mechanism, there are several weaknesses in the police authority regulations that can be identified:

1) Differences in restorative justice arrangements in each law enforcement agency, such as the Police, Prosecutor's Office, and the Judiciary, give rise to differences in perception and potential overlapping authority. This can hinder coordination and consistency in the implementation of restorative justice. In the case of the Pandeglang Police, although the restorative justice mechanism was successfully implemented, differences in regulations between agencies can lead to legal uncertainty. This shows that law enforcement agencies must work together and collaborate to ensure the implementation of effective and sustainable restorative justice.

2) Many investigators do not fully understand the concept of restorative justice and the requirements for its implementation, due to the lack of socialization regarding Police Regulation Number 8 of 2021. As a result, investigators may consider case resolution through restorative justice as just an ordinary peace effort, not as a legitimate legal mechanism. In the case of the Pandeglang Police, it is necessary to increase the capacity and understanding of investigators regarding the concept and implementation of restorative justice through ongoing socialization, training, and coaching in accordance with Police Regulation Number 8 of 2021. This is because, even though the restorative justice mechanism is successfully implemented, a lack of understanding of the applicable regulations can hinder the effectiveness and legitimacy of the case resolution process. This is important to ensure that the case resolution process through restorative justice is effective, fair, and in accordance with applicable legal regulations.

3) The Criminal Procedure Code (KUHP) does not include reasons for stopping an investigation due to restorative justice, which raises doubts for investigators in stopping an investigation into a crime through this mechanism. To ensure the effective and sustainable implementation of restorative justice throughout the national legal system, regulatory harmonization and formal recognition of restorative justice in the national legal system are needed. In the case of the Pandeglang Police, the disharmony between internal police regulations and the Criminal Procedure Code can disrupt the legitimacy and sustainability of case resolution through this method.

Although the restorative justice mechanism has been successfully used in cases handled by the Pandeglang Police, there are weaknesses in the regulations and implementation that indicate that improvements are needed to ensure more efficient and sustainable justice. One of the main weaknesses is that Police Regulation Number 8 of 2021 is not aligned with the regulations of other law enforcement agencies, such as the Prosecutor's Office and the Supreme Court.

This inconsistency can cause legal uncertainty and hinder cooperation between institutions in the process of resolving cases through a restorative approach.

Restorative justice often face structural and cultural challenges when implementing it at the police level. Structurally, human resources who have a deep understanding of the principles of restorative justice are still limited, and there are no facilities that support the mediation process between perpetrators and victims. Culturally, community acceptance of the restorative approach is hampered by the law enforcement paradigm that still focuses on punishment and revenge. These weaknesses indicate that restorative justice as an alternative to resolving criminal cases still requires major efforts to strengthen regulations, improve the capacity of law enforcement, and change the community paradigm so that this method can be implemented successfully.

Based on Friedman's legal system theory, there are 3 weaknesses related to restorative justice, namely:

- 1) Legal Substance: There is no legality in formal criminal law (KUHP) regarding the resolution of criminal acts through restorative justice mechanisms.
- 2) Legal Structure: Whereas the resolution of criminal acts through the restorative justice mechanism carried out by the police is still regulated in Perpol No. 8 of 2021, there are still many gaps in its implementation so that to resolve it, law enforcers carry out law enforcement discretion.
- 3) Legal Culture: That the resolution of criminal acts through restorative justice mechanisms cannot be carried out when the case has entered the investigation stage.

The principle of restorative justice in Islamic teachings places great emphasis on the values of *rahmah*, which means compassion, *'afw*, which means forgiveness, and *islah*, which means peace. Not only punishing, the goal is to improve the relationship between the perpetrator, victim, and society. The restorative justice approach within the Islamic framework will be hampered if existing laws, such as Police Regulation No. 8 of 2021, do not consistently support case resolution mechanisms that are in line with these principles. If the regulations are unclear or incomplete, the implementation of restorative justice can be inconsistent, dependent on the interpretation of the authorities, or even not carried out at all. As a result, the Islamic principles that support peace and forgiveness become difficult to apply in law enforcement work. In addition, if the community and law enforcers are not well educated about the principles of Islamic restorative justice, not only punishing, the goal is to improve the relationship between the perpetrator, victim, and society.

The principles of social justice, peace, and moral responsibility are closely related to the restorative and reconciliation approach in Islam. Islam advocates peaceful

resolution of conflicts through mediation and deliberation between the disputing parties. The term "islah" describes this concept: an attempt to reconcile two conflicting parties to reach an agreement that is fair and satisfactory to all parties. This shows that Islam prioritizes resolution that focuses on improving interpersonal relationships and restoring social harmony. The Qur'an in Surah Al-Hujurat verse 10 states that, "The believers are indeed brothers. There fore make peace between your two brothers and fear Allah, that you may receive mercy." This verse emphasizes the importance of the role of the community and the authorities in creating peace, which is in line with the restorative justice approach.

The concept of islah or peace in Islam emphasizes the resolution of conflicts peacefully, fairly, and based on the principle of ukhuwah. This method is very much in line with the principle of restorative justice found in contemporary law, which also aims to restore the victim's losses, improve the perpetrators, and create harmony in society. Similar to the restorative justice mechanism that encourages the participation of various parties in the mediation process, islah actively involves religious figures, families, and the community. Although both are based on the principles of justice and peace, there is a striking difference in legal force: islah is more normative religious in nature without formal legal force, while restorative justice is legally protected by state laws such as Perpol No. 8 of 2021. Both show that justice can not only be achieved through punishment, but also through conversation, restoration, and agreements that prioritize human values. Therefore, the restorative justice approach in contemporary law actually has a strong basis in Islamic teachings. However, to achieve maximum and just results, this approach requires support from regulations that are able to accommodate these religious values officially, as well as law enforcers who understand and respect these principles in practice.

The process of drafting a law that gives the police authority to resolve criminal acts through a restorative justice mechanism contains normative content that is very important to create legal certainty and consistent procedures in law enforcement practices. In the case of the Pandeglang Police, which handled a motorcycle embezzlement case in a family manner, it can be seen how Police Regulation Number 8 of 2021 functions as a legal basis that regulates the scope of police actions systematically and legally. The normative content includes a hierarchical legal basis, clarity of procedures, and legitimacy to stop the investigation process after formal and material requirements have been met.

This emphasizes that restorative justice mechanisms are part of a recognized legal system and not just a peaceful alternative, therefore, they must be formulated clearly and consistently so that their implementation does not raise doubts in the future.

3.3. Formulation of Police Authority Regulation in Resolving Criminal Acts Through Restorative Justice Mechanisms in the Future.

Formulation is a systematic and organized process for creating ideas, concepts, policies, or rules. In the legal context, formulation is often used to create comprehensive and clear regulations, rules, or policies, which include initial stages such as planning, needs analysis, normative text creation, and evaluation of the impact of the regulation. The purpose of formulation is to create legal norms. If policies or laws are not made properly, they can be ambiguous, ineffective, or even contrary to good social principles. Formulation is also important to ensure that the regulations made are applied fairly, have a strong legal basis, and are acceptable to the community. In addition, it helps in determining problems or needs. If policies or laws are not made properly, they can be ambiguous, ineffective, or even contrary to good social principles. Formulation is also important to ensure that the regulations made are applied fairly, have a strong legal basis, and are acceptable to the community.

Settlement of criminal acts through restorative justice mechanisms, regulation of police authority refers to the process of designing, compiling, and developing rules that systematically regulate the limits, scope, and ways in which the police can act to resolve cases peacefully, fairly, and humanely. In terms of normative content, in developing regulations governing police authority to resolve criminal acts through restorative justice mechanisms, normative content refers to the legal principles and values underlying the regulations. In this case, normative content includes a legal basis that ensures that the case resolution process is not only based on legitimate procedures, but also meets the principles of justice, equality, and human rights. This normative also involves the responsible party. In addition, this normative content serves to encourage police action.

On the other hand, there is another formulation, namely a formulation that includes a legal, philosophical, and sociological perspective to help the regulation deal with future legal issues, such as the complexity of crime and the advancement of digital technology, as well as the demand for a more effective and just justice system. The following is a detailed explanation of the formulation of regulations that include legal, philosophical, and sociological perspectives, to strengthen the regulation of police authority in the restorative justice mechanism in the future:

1) Legal Perspective (Positive Law and Legal Certainty)

From a legal perspective, a strong, clear, and hierarchical legal basis is needed to establish police authority rules. This must be done in accordance with the principle that higher laws override lower laws (*lex superior derogat legi inferiori*). This means that all laws governing police authority in restorative justice must be based on a hierarchy of laws and regulations, starting from the 1945 Constitution

as the main law, followed by the Police Law, the Criminal Procedure Code (KUHP), and the Chief of Police Regulation as technical laws governing police operations. In this case, legal certainty is also an important principle. This is demonstrated by establishing formal and material requirements, types of crimes that can be resolved restoratively, and the procedures or stages that must be followed for the resolution to be considered legally valid.

2) Philosophical Perspective (Values of Justice and Humanity)

The philosophical perspective in establishing police authority through the restorative justice mechanism, the goal is to build a humanistic justice system and support recovery rather than retaliation. This method respects the rights of perpetrators and victims through a process of deliberation and peace agreement. It also reflects national values such as mutual cooperation and *islah* in Islam. To prevent stigma, the principle of humanization is also emphasized, especially when dealing with first-time perpetrators, children, and vulnerable groups. The philosophical perspective on restorative justice tends to uphold human rights (HAM) rather than simply applying legal sanctions. This is shown by the main goal of restorative justice, which focuses on restoring social relations, respecting human dignity, and achieving peace between perpetrators and victims. This method, which is based on positive law, does not provide criminal sanctions as the only option, instead, it allows for a more just, humanistic, and respectful solution to human values, especially in minor cases or against perpetrators who are less legally competent.

3) Sociological Perspective (Social Needs and Realities)

The sociological perspective in developing police laws for restorative justice is so that laws can adapt to social dynamics and challenges of the times, such as crimes arising from technological developments such as online fraud, hate speech, and verbal violence on social media. This method emphasizes that the community, traditional leaders, religious leaders, and academics must be actively involved in the process of formulating regulations in order to create participatory and contextual regulations. In addition, the sociological approach helps answer the challenges of modern crime, which often involve complex and cross-cultural social relationships. As a result, the regulations made are flexible and solution-oriented. It is impossible for the customs of a community in a place to be immediately applied in a new area or place of residence, according to the sociological perspective in the formation of police regulations for restorative justice. Social and cultural norms that form habits come from different social interactions in each community. As a result, the sociological approach emphasizes understanding and adjusting regulations to the norms, principles, and social structures of the local community. The resolution of cases in restorative justice must consider justice based on the social values that apply at the scene, not the habits of the perpetrators at the scene. This is done to ensure

that conflict resolution is carried out in a fair manner, which is accepted by society, and that social relations can be restored properly.

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The sociological perspective in developing police laws for restorative justice is so that laws can adapt to social dynamics and challenges of the times, such as crimes arising from technological developments such as online fraud, hate speech, and verbal violence on social media. This method emphasizes that the community, traditional leaders, religious leaders, and academics must be actively involved in the process of formulating regulations in order to create participatory and contextual regulations. In addition, the sociological approach helps answer the challenges of modern crime, which often involve complex and cross-cultural social relationships. As a result, the regulations made are flexible and solution-

oriented. It is impossible for the customs of a community in a place to be immediately applied in a new area or place of residence, according to the sociological perspective in the formation of police regulations for restorative justice. Social and cultural norms that form habits come from different social interactions in each community. As a result, the sociological approach emphasizes understanding and adjusting regulations to the norms, principles, and social structures of the local community. The resolution of cases in restorative justice must consider justice based on the social values that apply at the scene, not the habits of the perpetrators at the scene. This is done to ensure that conflict resolution is carried out in a fair manner, which is accepted by society, and that social relations can be restored properly.

The implementation of restorative justice at the Bandegelang Police is certainly inseparable from the implementation of policies from the Indonesian National Police or the policies of the State of Indonesia. The implementation of restorative justice in various countries shows a variety of approaches, depending on the legal culture, justice system, and social norms in each country. As in the Philippines, restorative justice is stated in the Juvenile Justice and Welfare Act 2006 (Republic Act 9344) and the Barangay Justice System (Katarungang Pambarangay). The Juvenile Justice and Welfare Act 2006 regulates the implementation of restorative justice in cases involving children, while the Barangay Justice System accommodates restorative justice arrangements for adult cases at the Barangay (municipality) level. Cases that can be resolved through restorative justice are minor cases and do not cause human casualties, such as theft, defamation, violations against children and women, and others, which are agreed upon by both the victim and the perpetrator.⁹ In its implementation, restorative justice at the Barangay level actively involves Barangay officials. To ensure the competence of Barangay officials, training on mediation is provided to Barangay officials. In its implementation, there are several stages, namely mediation as the first step, conciliation led by Barangay officials as guardians of order in their area, and arbitration which is carried out if the parties refuse to carry out conciliation, then the Katarungan Pambarangay Council leads the arbitration process, if it fails, the case is submitted to the court.

The results of these Barangay-level efforts vary, from reprimands and warnings, to compensation or reimbursement for losses or injuries suffered by victims. This system has been proven to reduce the number of case files piling up in court, and is effective in offering a low-cost settlement model.¹⁰ The application of restorative justice for adult criminals is explained in the revised katarungang

⁹Rahmawati, Maidina et al. *Opportunities and Challenges of Implementing Restorative Justice in the Criminal Justice System in Indonesia* (Jakarta: Institute for Criminal Justice Reform, 2022), p. 88.

¹⁰Garcia, Mario A. "Restorative Justice in Action: The Kalinga Experience." *IJRDO – Journal of Social Science and Humanities Research*. Vol.4, (No.7), (2019), pp. 291-325

pambarangay law. In section VI Section 2 of the regulation, it is explained that the restorative justice settlement method can be applied to all criminal acts except:¹¹

- a. One party is the government, or a subdivision or instrumentality thereof;
- b. If one of the parties is an official or civil servant, and the dispute is related to the implementation of his or her official functions;
- c. Violations which according to the law are punishable by a maximum imprisonment of more than one (1) year or a fine of more than Five Thousand Pesos (P5,000.00);
- d. An offense in which no individual is offended;
- e. Where the dispute involves real property situated in different cities unless the disputing parties agree to submit their dispute to amicable settlement by the assigned lupon.
- f. Disputes involving parties who actually reside in different barangays or municipalities, unless the barangay units are adjacent to each other and the parties therein agree to submit their disputes to amicable settlement through an assigned lupon;
- g. Other classes of disputes as determined by the President in the interests of justice or upon the recommendation of the Secretary of Justice.

4. Conclusion

The police have the authority to resolve cases from reports or complaints from the public about alleged criminal acts or when they directly discover an event that is suspected of being a violation of the law. Article 13 of Law Number 2 of 2002 concerning the Indonesian National Police, this authority includes receiving reports, conducting investigations and inquiries, and seeking to resolve cases both repressively and preventively. When a case meets the requirements to be resolved peacefully, namely, when the perpetrator and victim are willing to reconcile, does not have a broad impact on society, and does not involve serious crimes, this authority is given in the context of restorative justice. If we look at the authority of the police in Restorative Justice, this authority is specifically regulated in the Regulation of the Indonesian National Police (Perpol) Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice. This authority includes, a humanistic investigative function, applying the principles of speed, simplicity, and low cost, encouraging social participation, implementing special case titles, and officially terminating investigations (SP3)

¹¹Haedah Lintang Dahayu and Abdul Kholiq, Critical Analysis of the Implementation of Restorative Justice: Comparison of Concepts in the Criminal Justice System in Indonesia with Australia and the Philippines, *Kertha Semaya Journal*, Vol. 12, (No.10), 2024, p. 2680.

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