

## Restorative Justice in the Settlement of the Mild Assault Case by Investigators at the Bintan Police

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**Abstract.** *The paradigm of criminal law enforcement has shifted from a retributive approach to a restorative approach. This study aims to analyze the implementation of Restorative Justice (RJ) by investigators in resolving cases of minor assault at the Bintan Police. The background of this study is based on the empirical fact that most cases of minor assault do not proceed to court, but are instead resolved through SP2.Lid and SP3. While the application of RJ is still very limited and has not become the primary pattern of case resolution. The method used is an empirical juridical approach with data collection techniques through in-depth interviews with investigators, victims, and perpetrators. This research is also supported by secondary data in the form of regulations such as Article 352 of the Criminal Code, Perpol No. 8 of 2021, and SEJA No. 15 of 2020. The results show that the RJ mechanism has been implemented in several cases through penal mediation, peace agreements, and the preparation of peace minutes, but has not been optimal. The main obstacles to the implementation of RJ include juridical obstacles (a lack of synchronization of legal regulations), structural obstacles (minimal training and investigator workload), and sociological obstacles (community resistance to peace mechanisms). This research suggests the importance of strengthening RJ regulations through specific legislation, increasing the capacity of investigators through penal mediation training, and involving community and traditional leaders to instill restorative justice values at the local level. Theoretically, this research contributes to strengthening a progressive legal paradigm and a legal system that is more responsive to the needs of victims' recovery and social harmony.*

**Keywords:** Assault; Investigators; Justice; Restorative.

### 1. Introduction

In the practice of criminal law enforcement in Indonesia, particularly for minor assault offenses, problems often arise with the effectiveness of resolving cases through litigation. Lengthy legal processes, high costs, and the psychological

impact on both victims and perpetrators actually worsen previously harmonious social relationships. This becomes even more problematic when even trivial cases that could have been resolved amicably end up in court.

The fact is that the conventional criminal justice system is still the main choice, even though there is an alternative mechanism that is more humane and solution-oriented, namely the restorative justice approach, which already has a normative basis but has not been implemented optimally, especially by investigators at the police level such as at the Bintan Police.

The application of restorative justice in resolving cases of minor assault has been legitimized through a number of regulations such as Police Regulation Number 8 of 2021, Attorney General's Circular Letter Number 15 of 2020, and Supreme Court Regulation Number 4 of 2014. However, empirical data at the Bintan Police shows that the majority of cases of minor assault during the 2022–2024 period were still resolved through SP2Lid or SP3, and only a small portion used a restorative justice approach.

This phenomenon demonstrates a gap between regulations and implementation on the ground. Therefore, it is important to examine in-depth how investigators at the Bintan Police Department implement restorative justice, the obstacles they face, and the strategies they can employ to optimize their role in resolving cases fairly, expeditiously, and with dignity.

Law enforcement officials, such as police, prosecutors, and judges, play a dominant role in determining the direction of case resolution, with little room for public participation, particularly for victims and perpetrators, in seeking peaceful resolution. While this system aims to provide legal certainty, in practice it often falls short of meeting the need for substantive justice, particularly in less serious cases.<sup>1</sup>

In the context of minor criminal cases such as minor assault, the formal criminal justice system has proven inefficient. Resolving cases through legal channels requires a lengthy process, from police reports to investigations, prosecutions, and trials. This process is not only time-consuming and expensive, but also causes psychological distress for victims and perpetrators, who could have been reconciled without excessive state intervention. Furthermore, minor cases like these often receive less attention than larger cases, yet they still burden the system as a whole.<sup>2</sup>

In the conventional criminal law system, the resolution of criminal cases is oriented towards revenge or retribution, which emphasizes punishment of the

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<sup>1</sup>Andi Hamzah, *Indonesian Criminal Justice System*, Sinar Grafika, Jakarta, 2020, p. 97.

<sup>2</sup>Muladi, *Selected Chapters on the Criminal Justice System*, UNDIP Publishing Agency, Semarang, 2022, p. 134.

perpetrator without considering the need for recovery for the victim or the social relationships that are disturbed.

In response to these various weaknesses, an alternative approach known as restorative justice has emerged, namely a mechanism for resolving criminal cases that focuses more on restoring the situation, reconciliation between perpetrators and victims, and active community involvement in the conflict resolution process.

The concept of restorative justice rests on the principle that crime is a violation of social relations, not merely a violation of the state. Therefore, resolving it requires more than just imposing punishment; it must involve the perpetrator, victim, and community to repair damaged relationships. The primary goal of restorative justice is to repair losses, restore trust, and encourage perpetrators to take responsibility for their actions. This process is often carried out through mediation, deliberation, or peaceful meetings facilitated by law enforcement officials or neutral facilitators.<sup>3</sup>

In minor criminal cases such as minor assault, a restorative justice approach has advantages over a retributive approach. Restorative justice offers efficiency in the legal process by allowing cases to be stopped before they reach prosecution or trial, saving time, effort, and costs for all parties. Furthermore, restorative justice encourages peaceful and amicable conflict resolution, potentially more sustainable than court decisions that tend to create "winners" and "losers."<sup>4</sup> This is important, especially in societies that still uphold the values of deliberation and conflict resolution through customary or family means.

In the development of national criminal law, the government has adopted the Restorative Justice approach as part of modern criminal policy. This is evident in the issuance of Indonesian National Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice, which authorizes investigators to resolve cases through Restorative Justice, particularly for minor crimes. This regulation strengthens investigators' position as the vanguard in pursuing case resolutions that focus on recovery, not solely on punishment.<sup>5</sup>

In some regions, the conflict resolution process is still influenced by patriarchal culture, the dominance of certain groups, or discriminatory informal practices. In these situations, RJ can be misused to perpetuate social inequality, rather than as a means of restoring justice. Therefore, implementing RJ at the investigative level

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<sup>3</sup>Mardjono Reksodiputro, *Criminology and Criminal Justice System*, UI Center for Justice and Legal Services, Jakarta, 2024, p. 112.

<sup>4</sup>Muladi and Barda Nawawi Arief, *Criminal Theories and Policies*, Alumni, Bandung, 2020, p. 148.

<sup>5</sup>Lilik Mulyadi, *Diversion and Restorative Justice in the Criminal Justice System in Indonesia*, PT Citra Aditya Bakti, Bandung, 2023, p. 96.

requires a contextual approach, taking into account both national legal values and local wisdom that supports substantive justice.

The selection of the Bintan Police as the case study location for this research was based on strong academic and practical considerations. Academically, the Bintan Police is a police unit that handles various types of crimes, including minor cases such as minor assault, which is the focus of this research.

This study examines the resolution of minor assault cases at the Bintan Police from 2022 to 2024. Based on available data, of the 10 assault cases, most were resolved with SP2LID (Notification Letter for Research Results Progress) or SP3 (Investigation Termination Order) status. Specifically, in 2022, three out of four assault cases were still under investigation, while two cases were discontinued. This indicates a trend of cases being resolved without always progressing to prosecution in court.

In 2023, data showed an interesting development with one case being resolved through the Restorative Justice or RJ approach, which indicates that settlement methods outside of litigation are starting to be implemented. However, the majority of other cases still ended with SP2LID or SP3, confirming that the implementation of Restorative Justice is still not the primary approach in handling cases of minor assault in the region. This study is important to analyze the extent to which Restorative Justice is implemented and the legal obstacles faced by investigators, considering that RJ can be an effective solution for restorative justice.

From the problem and title which has been described above, the formulation of the problem that will be discussed is as follows:

- 1) How is restorative justice implemented by investigators in resolving cases of minor assault at the Bintan Police?
- 2) What are the obstacles and how can investigators optimize the application of restorative justice in cases of minor assault at the Bintan Police?

#### 1) The Concept of Restorative Justice

*Restorative justice* Restorative justice is an approach within the criminal justice system that focuses on restoring the well-being of victims, perpetrators, and communities affected by criminal acts. Unlike retributive approaches, which emphasize punishment, restorative justice seeks to rebuild social relationships damaged by criminal acts through dialogue, participation, and mutual agreement between perpetrators, victims, and the community.<sup>6</sup>

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<sup>6</sup>Muladi, Op.cit, p. 112.

Key characteristics of restorative justice include fostering dialogue between victims and perpetrators, community involvement, and a focus on restoration rather than retaliation. In this process, perpetrators are expected to acknowledge their mistakes and voluntarily take responsibility for their actions. This has a positive impact on both victims, who feel heard and respected, and perpetrators, who can make amends without having to go through a formal and repressive punishment process.<sup>7</sup>

The principles of restorative justice include: (1) restitution of losses caused by criminal acts, both material and immaterial; (2) active participation of all parties involved; (3) the perpetrator's responsibility to repair the damage caused; and (4) protection of the victim's rights, including the right to be heard and respected. In this context, justice is no longer seen as "state revenge," but rather as a healing process involving all parties.<sup>8</sup>

The primary benefits of restorative justice in minor criminal cases, such as minor assault, include efficient case resolution, reduced burden on the judicial system, and the restoration of social relationships between perpetrators and victims. Restorative justice also allows investigators to employ a more humanistic and responsive approach to the local context, particularly in communities with strong family values, such as in the Bintan region. This approach supports efforts to reform criminal law toward greater justice and inclusiveness.

The main goal of restorative justice is not only to resolve legal conflicts, but also to encourage public legal awareness, strengthen social participation, and improve the psychological condition of victims.<sup>9</sup> Thus, RJ is an appropriate alternative to be applied in resolving minor criminal cases that do not cause public unrest or serious threats to public order.

## 2) Criminal Law Policy related to Restorative Justice

Criminal law policy, or penal policy, is part of social policy aimed at controlling crime. Within this framework, criminal law policy aims to prevent crime by using criminal sanctions effectively and efficiently.

There are two main forms of policy: penal policy, which focuses on a repressive approach through the criminal justice system, and non-penal policy, which is preventative, including social and educational approaches before a crime occurs. Criminal law policy plays a crucial role as a state instrument to protect society through a system of legislation and law enforcement that is responsive to social

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<sup>7</sup>Mardjono Reksodiputro, *Op.cit.*, p. 89.

<sup>8</sup>Lilik Mulyadi, *Criminal Law in a Restorative Justice Perspective*, Citra Aditya Bakti, Bandung, 2021, p. 56.

<sup>9</sup>Barda Nawawi Arief, *Anthology of Criminal Law Policy*, Citra Aditya Bakti, Bandung, 2018, p. 22.

change.<sup>10</sup>

*Restorative Justice* Justice is not solely focused on punishing the perpetrator, but also on reparation for the victim's losses, accountability, and active community participation. This concept shifts the classic approach that emphasizes retribution or state retaliation against the perpetrator. With this approach, the criminal law system becomes more humanistic, just, and constructive.<sup>11</sup>

Within the context of national law, restorative justice has begun to be formally incorporated into several key regulations. At the police level, National Police Chief Regulation Number 8 of 2021 regulates the Handling of Criminal Offenses Based on Restorative Justice, which authorizes investigators to resolve cases through deliberations involving victims, perpetrators, and the community. This regulation provides legal legitimacy for investigators' discretionary actions in terminating cases that meet certain criteria.<sup>12</sup>

### 3) Investigator Discretion in the Criminal Justice System

Discretion is the authority granted to public officials to choose the most appropriate course of action under certain legal circumstances, but is not explicitly regulated in regulations. In the context of criminal procedure, investigator discretion refers to the freedom to act in handling a case in the interests of law, justice, and the public interest.

The legal basis for discretion in Indonesia can be found in Article 18 paragraph (1) of Law Number 2 of 2002 concerning the Republic of Indonesia National Police, which states that "in the public interest, officials of the Republic of Indonesia National Police in carrying out their duties and authorities can act according to their own judgment."<sup>13</sup>

In the criminal justice system, discretion must be exercised responsibly, proportionally, and in accordance with the principles of legality and human rights. Discretionary actions by investigators must consider the harm caused and must be legally justifiable. Therefore, all discretion has strict limits and must align with the objectives of the criminal justice system, namely to protect the public and ensure justice and legal certainty.<sup>14</sup>

The use of investigators' discretion for RJ still carries the risk of irregularities, such as potential abuse of authority or external intervention in the case resolution

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<sup>10</sup>Ibid, p. 27.

<sup>11</sup>Romli Atmasasmita, *Reconstruction of Indonesian Criminal Law Theory*, Refika Aditama, Bandung, 2021, p. 145.

<sup>12</sup>Regulation of the Chief of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice.

<sup>13</sup>Soerjono Soekanto, *Principles of Legal Sociology*, Rajawali Press, Jakarta, 2016, p. 137.

<sup>14</sup>Muladi and Barda Nawawi Arief, *Criminal Theories and Policies*, Alumni, Bandung, 2018, p. 151.

process. Therefore, strict control and oversight mechanisms are needed for the implementation of this discretion, including accurate reporting and documentation at every stage of the investigation. Investigators are required to record the legal reasons, mediation results, and the parties' agreements as part of legal accountability in exercising their discretion.<sup>15</sup>

#### 4) Theoretical Framework

The main theory underlying this article is Restorative Justice, which is an alternative approach to resolving criminal cases that focuses on restoring victims' losses, perpetrators' responsibility, and active community involvement.<sup>16</sup> Restorative Justice emphasizes a dialogical process, mediation, and peace making between perpetrators, victims, and other stakeholders, to create a more just and sustainable resolution than the retributive justice system.<sup>17</sup> This theory is relevant in the context of cases of minor assault because the nature of the violation does not cause serious consequences, as well as the great opportunity to encourage direct social recovery.

The Legal System Theory put forward by Lawrence Friedman divides law into three elements: legal structure, legal substance, and legal culture.<sup>18</sup> In this article, the legal structure is analyzed through the role of the police institution (in this case, the Bintan Police). The legal substance is analyzed through various regulations on restorative justice (KUHAP, Perpol No. 8 of 2021, SEJA No. 15 of 2020, etc.), while legal culture reflects the extent to which law enforcement officers and the community understand and accept the RJ-based settlement model. This theory is used to assess the consistency between legal norms and their implementation in the field, as well as the dynamics of local legal culture that influence the success of RJ.

Satjipto Rahardjo's Progressive Legal Theory is used to provide legitimacy to investigators' innovations in implementing RJ, even though it is often not strongly supported by formal laws.<sup>19</sup> Progressive law views the law as more than just a normative text, but rather as a dynamic and bold approach to breakthroughs for substantive justice. Investigators who apply RJ in cases of minor assault are

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<sup>15</sup>Ali, Achmad, *Uncovering Legal Theory and Judicial Prudence*, Kencana, Jakarta, 2019, p. 244.

<sup>16</sup>Howard Zehr, *Changing Lenses: A New Focus for Crime and Justice*, Herald Press, Scottsdale Pennsylvania, 2020, p. 181.

<sup>17</sup>Lilik Mulyadi, *Restorative Justice in the Criminal Justice System in Indonesia*, Prenadamedia Group, Jakarta, 2021, p. 73.

<sup>18</sup>Lawrence M. Friedman, *Legal System in Social Science Perspective*, "The Legal System: A Social Science Perspective", Nusa Media, Bandung, 2019, p. 16.

<sup>19</sup>Satjipto Rahardjo, *Progressive Law: A Synthesis of Indonesian Law* (Yogyakarta: Genta Publishing, 2010), p. 15.



considered progressive actors, pushing the law to be more responsive to societal needs and humanitarian values.<sup>20</sup>

These three theories are used complementary to analyze the implementation of RJ at the Bintan Police. Restorative Justice Theory provides a normative and philosophical foundation; Legal System Theory provides an analytical framework for regulatory and institutional structures; and Progressive Legal Theory bridges the need for practical legal change. The integration of these three theories helps illustrate how RJ implementation is not merely a matter of legal technicalities, but also of courage, culture, and community involvement. This is crucial for understanding the opportunities and challenges of RJ's broader implementation within the police institution.

## **2. Research Methods**

This article uses normative and empirical juridical research types.<sup>21</sup> Normative legal research was conducted by examining relevant laws and regulations, such as the Criminal Code (KUHP), the Criminal Procedure Code (KUHAP), the National Police Chief Regulation No. 8 of 2021, the Attorney General's Circular Letter No. 15 of 2020, and Supreme Court Regulation No. 4 of 2014, to understand the legal basis for implementing restorative justice. Empirical legal research explored field practices through a case study at the Bintan Police, specifically regarding how investigators implemented the RJ mechanism in cases of minor assault. The approach used is a qualitative approach with a socio-legal approach.<sup>22</sup>, where positive legal aspects are combined with empirical data in the form of the practices and experiences of investigators, victims, and perpetrators. This approach allows the author to assess not only the normative side of regulation but also to explore the extent to which the law operates in the social reality of the Bintan region. The research data sources consist of primary data and secondary data.<sup>23</sup> Primary data was obtained through interviews with investigators, victims, and perpetrators of minor assault cases resolved through RJ, as well as direct observation of police documents such as SP2Lid and SP3. Secondary data was obtained from laws and regulations, legal literature, and previous research related to RJ. Data collection techniques used were in-depth interviews, documentation, and literature review.<sup>24</sup> Data analysis was conducted using a descriptive-qualitative method, namely systematically describing primary and secondary data and then linking it to the legal theories used: Legal System Theory (Lawrence M. Friedman), Restorative Justice Theory (Howard Zehr), and Progressive Law Theory (Satjipto

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<sup>20</sup>Satjipto Rahardjo, *Law and Society* (Bandung: Angkasa, 2009), p. 22.

<sup>21</sup>Soerjono Soekanto and Sri Mamudji, *Normative Legal Research: A Brief Review*, Seventh Edition, Jakarta: Raja Grafindo Persada, 2015, p. 13.

<sup>22</sup>Irawan Suhartono, *Social Research Methods: A Research Technique in the Field of Social Welfare*, Bandung: Remaja Rosda Karya, 2019, p. 63.

<sup>23</sup>Peter Mahmud Marzuki, *Legal Research*, Prenadamedia Group, Jakarta, 2017, p. 133.

<sup>24</sup>Bambang Sugono, *Legal Research Methods*, Jakarta: Raja Grafindo Persada, 2011, p. 29.



Rahardjo). Using this technique, the author can identify the suitability or gap between regulations, investigative practices, and community needs. The results of the analysis are then presented to answer the research focus regarding the implementation, obstacles, and efforts to optimize RJ at the Bintan Police.

### **3. Results and Discussion**

#### **3.1. Implementation of Restorative Justice by Investigators in the Settlement of Minor Assault Cases at the Bintan Police**

The implementation of restorative justice (RJ) by investigators at the Bintan Police in resolving cases of minor assault is based on the spirit of resolving conflicts peacefully outside the formal judicial process. Investigators have the discretionary authority to discontinue prosecution if the substantial and procedural requirements stipulated in Police Regulation No. 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice have been met. This concept is implemented to prioritize the restoration of social relationships between victims and perpetrators, avoiding the long-term effects of a formalistic criminal justice process.

The application of RJ by investigators is supported by several regulations that provide a legal basis, including Article 352 of the Criminal Code concerning minor assault, the Criminal Procedure Code as a procedural rule, as well as the Attorney General's Circular Letter (SEJA) No. 15 of 2020 and Supreme Court Regulation (Perma) No. 4 of 2014. All of these regulations indicate that settlement through a non-litigative approach is legally justified in minor cases, including minor assault, provided there is a voluntary peace agreement.

In practice, the implementation of RJ by investigators at the Bintan Police Department involves a series of stages: identifying cases suitable for RJ, obtaining consent from the victim and perpetrator for mediation, conducting the mediation with the involvement of community leaders and investigators as facilitators, and concluding with the signing of a peace agreement. These stages demonstrate that RJ is not simply a case termination, but a social process that emphasizes the active involvement of all parties.

One of the hallmarks of RJ at the Bintan Police is the direct involvement of victims and perpetrators in a dialogue process to convey complaints, hopes, and achieve a just resolution. Interviews with investigators, victims, and perpetrators revealed that most parties were satisfied because the process emphasized healing and a sense of justice, unlike formal legal processes, which are often emotionally distant.

This indicates that RJ has created a new space for public participation in the legal process.<sup>25</sup>

Data on minor assault cases at the Bintan Police from 2022 to 2024 shows an interesting trend. Of the ten cases recorded, the majority were resolved through non-litigation channels, with SP2LID (Notification Letter of Research Results Progress) or SP3 (Investigation Termination Order) status. This suggests that investigators at the Bintan Police tend to use their discretionary authority to dismiss cases, particularly when the parties have reached a settlement agreement.

In 2022, there were four cases of minor assault, three of which were still under investigation and two of which were discontinued. Interviews with investigators revealed that the reasons for discontinuing the cases were based on the reconciliation between the perpetrator and victim, as well as the consideration that the cases did not cause widespread social unrest. This aligns with the principles of restorative justice, although it is not always formally referred to as RJ by authorities.

Entering 2023, the implementation of restorative justice began to be more visible. Of several cases handled, one was resolved through penal mediation using the RJ mechanism. Investigators acted as facilitators, bringing together the perpetrator and victim and ensuring that the peace process was carried out voluntarily. The peace agreement was then documented in a report signed by both parties and witnessed by community leaders.

The implementation mechanism for RJ at the Bintan Police Department in practice involves the following stages: summoning the parties, facilitating mediation in the investigator's office, drafting a peace agreement, and issuing a written warning (SP3) as a legal follow-up. Field research indicates that the victim in this case accepted an apology and compensation from the perpetrator, while the perpetrator expressed a commitment not to repeat the same actions. With this agreement, investigators legally dismissed the case.

Interviews with victims indicate that they prefer a peaceful resolution through RJ over a lengthy trial process. Victims believe that immediate compensation and an admission of guilt from the perpetrator provide a more tangible sense of justice than a mere verdict. From the perpetrator's perspective, RJ is seen as an opportunity to make amends without the long-term stigma of a formal criminal process.

From the investigators' perspective, the implementation of RJ is seen as a solution to reduce the caseload and increase the effectiveness of law enforcement.

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<sup>25</sup>Andri Winjaya Laksana, "Law Enforcement Reform during the Covid-19 Pandemic: Necessity or Innovation?", *Varia Justicia Journal*, Vol. 16, No. 2, 2020, <https://doi.org/10.31603/variajusticia.v16i2.3903>

However, they also emphasize that not all cases of minor assault can be resolved through RJ. Investigators consider factors such as the victim's willingness, the extent of the loss, and the perpetrator's attitude. If one party is unwilling to reconcile, the case will proceed according to the Criminal Procedure Code (KUHP) procedures.

Investigators play an important role as facilitators who bridge the dialogue between the perpetrator and the victim.<sup>26</sup> However, in practice, investigators' skills in mediation techniques are still limited because not all investigators have received specialized training. This impacts the quality of the RJ process and the effectiveness of its resolution. Therefore, optimizing the role of investigators is crucial to ensuring the RJ process is conducted in accordance with the principles of restorative justice.

Documentation in the form of a settlement report is a crucial instrument in ensuring the legitimacy of a settlement agreement. In practice, at the Bintan Police, this report is prepared in writing and signed by the parties, investigators, and witnesses. This serves as formal evidence that the case was resolved legally and does not create potential legal issues later. With this document, investigators can report the settlement results to the prosecutor's office without any doubt.

Thus, the empirical implementation of restorative justice at the Bintan Police Department during the 2022–2024 period shows progress, albeit still limited. Case data demonstrates that the majority of cases are still resolved through SP2LID or SP3, but the presence of one RJ case in 2023 indicates a more progressive legal policy direction. This underscores the importance of this research, as it can provide both academic contributions in assessing the effectiveness of RJ and practical contributions in optimizing its implementation by investigators in island regions like Bintan.

The sociocultural context of the Bintan community, which upholds the values of deliberation and kinship, is a crucial factor in the implementation of RJ. The peace process, which involves community and religious leaders, strengthens the legitimacy of the mediation results and increases community acceptance of RJ. This aspect demonstrates that RJ does not conflict with local culture but rather strengthens it as part of civilized conflict resolution.

Based on field findings, it can be concluded that the implementation of RJ by investigators at the Bintan Police has shown significant potential in resolving minor assault cases peacefully and effectively. However, to make RJ a primary mechanism, regulatory evaluation, increased investigator capacity, and integration of local values into legal procedures are required. With a

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<sup>26</sup>Jawade Hafidz, "The Juridical Analysis of Court Decisions Regarding Adopted Children in Their Position as Single Heirs", *Jurnal Deeds*, Vol. 8, no. 4, Year 2021, <https://doi.org/10.30659/akta.v8i4.18631>

comprehensive approach, RJ can transform into a more humane and responsive instrument of justice that addresses community needs.<sup>27</sup>

Within the framework of Legal System Theory, the implementation of RJ at the Bintan Police can be analyzed through three main elements: legal structure, legal substance, and legal culture. The legal structure is represented by the Bintan Police, which has the authority to resolve criminal cases formally, including using the RJ approach in handling minor cases such as assault.

The legal substance is reflected in the regulations that serve as the legal basis for the implementation of RJ, such as Police Regulation No. 8 of 2021, SEJA No. 15 of 2020, and Supreme Court Regulation No. 4 of 2014. However, there is a disharmony with the Criminal Procedure Code (KUHP), the parent law of criminal procedure. In terms of legal culture, public acceptance of RJ is uneven; some still consider peaceful resolution to be a weakening of the law, indicating the need for more intensive legal education.

*Restorative Justice Theory* emphasizes the principles of relationship restoration, perpetrator responsibility, and voluntary participation of both victims and perpetrators. In practice at the Bintan Police, RJ has been implemented in several cases of minor assault through mediation and a peace agreement outlined in a peace report.

However, research shows that this mechanism is not yet functioning optimally. Many cases still end with a SP3 due to a lack of understanding between the victim and the perpetrator or the failure to meet the requirements for RJ. This obstacle indicates that participatory values and the principle of restitution have not yet become the dominant practice in the law enforcement system at the investigative level.

From the perspective of Progressive Legal Theory, the implementation of RJ at the Bintan Police Department represents a concrete effort by investigators to interpret the law in a more humane manner, not strictly based on legal texts. Investigators who dare to exercise discretion to resolve cases through RJ demonstrate the courage to make legal breakthroughs in the interests of substantive justice and social sustainability.

However, this progressive approach often clashes with the rigidity of criminal procedure law and pressure from superiors or external parties who still adhere to a legalistic mindset. This means that investigators' courage is largely determined by institutional support and more holistic reform of the criminal justice system.

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<sup>27</sup>Khairul Riza, Irpan Husein Lubis, Nicha Suwalla, "Legal Certainty Regarding Aceh Customary Court Decisions in the Settlement of Theft Crimes", Scientific Journal of Law and Human Rights (JIHHAM), Vol. 2, No. 1, 2022, <https://doi.org/10.35912/jihham.v2i1.1580>

These three theories complement each other in analyzing the empirical reality at the Bintan Police Department. Legal system theory helps understand the institutional and cultural context of society; restorative justice theory emphasizes the restorative aspects of justice values and processes; while progressive legal theory encourages an active role for law enforcement officials in legal innovation to create justice that is more responsive to community needs.

Therefore, this research provides a theoretical contribution in strengthening the position of RJ in the Indonesian legal system, and a practical contribution in the form of policy recommendations for the Indonesian National Police, especially investigators, to be bolder and more systematic in applying RJ to minor criminal cases.

### **3.2. Obstacles and Efforts to Optimize the Implementation of Restorative Justice by Investigators in Cases of Minor Assault at the Bintan Police**

The first obstacle to implementing restorative justice (RJ) at the Bintan Police is regulatory disharmony. The Criminal Procedure Code (KUHP) remains the primary reference in the criminal justice system, emphasizing formal processes, while Police Regulation No. 8 of 2021, SEJA No. 15 of 2020, and Supreme Court Regulation No. 4 of 2014 allow for RJ. This inconsistency raises doubts for investigators, as the decision to terminate a case through RJ could be legally challenged, particularly by public prosecutors.

Furthermore, there is a barrier in the form of the lack of specific legislation regarding RJ. Existing regulations are still internal institutional regulations, making them less legally binding than laws. This places investigators in a dilemma, as their discretion often lacks a strong legal framework if questioned in court or during internal oversight.

Structural barriers are also a significant factor. The limited number and capacity of investigators at the Bintan Police Department make it difficult to implement RJ optimally. Research shows that most investigators have never received formal training in penal mediation techniques, resulting in the peace process relying more on a family approach and personal experience, rather than standardized mediation skills.

From a sociological perspective, obstacles arise in the form of community resistance to peace. Some victims and their families view RJ as a form of weakening the law, as perpetrators are perceived as escaping criminal punishment. Furthermore, the legal culture, which still tends to be retributive, makes some people prefer formal justice processes over peaceful resolution, especially if the perpetrator has a bad record or is from an outside group.

To overcome normative barriers, unification of RJ regulations is needed through a revision of the Criminal Procedure Code (KUHP) or the creation of a specific law

on restorative justice. This would provide stronger legal certainty for investigators in exercising discretion, while also guaranteeing legal protection for victims and perpetrators. With a legal basis at the level of a law, the implementation of RJ would no longer be partial but rather an integral part of the criminal justice system.<sup>28</sup>

From a structural perspective, improving the capacity of investigators is crucial. Formal training on penal mediation techniques, conflict communication, and victim protection is essential on an ongoing basis. Furthermore, the establishment of a dedicated RJ unit or team within the Bintan Police can ensure that the peacemaking mechanism operates according to consistent procedural standards, and does not rely solely on the initiative of individual investigators.

Optimization efforts must also be made in sociological and cultural aspects. Public outreach is crucial to ensure that RJ is understood as a mechanism for recovery, not a weakening of the law. Involving community, traditional, and religious leaders in the RJ process can strengthen the social legitimacy of the peace agreement. This also aligns with the value of deliberation, which remains strong in the local culture of the Bintan community.

Thus, optimizing RJ at the Bintan Police requires a multidimensional approach: normative, structural, and cultural. Synchronizing regulations will strengthen legal certainty, increasing investigator capacity will ensure quality implementation, and community outreach will increase social acceptance. If these three efforts are implemented simultaneously, RJ can be an effective, efficient, and humane mechanism for resolving minor assault cases.

#### **4. Conclusion**

The implementation of restorative justice by investigators in resolving a case of minor assault at the Bintan Police has demonstrated a progressive step toward a more humane criminal case resolution. Investigators used their discretion to bring the perpetrator and victim together in penal mediation, which was then documented in a peace report as the basis for dismissal. Although its application remains limited, the practice of restorative justice at the Bintan Police demonstrates that resolving cases outside of litigation can provide space for participation for victims and perpetrators, while simultaneously restoring social harmony often damaged by lengthy and repressive formal criminal justice processes. However, the implementation of RJ still faces significant obstacles from a legal, structural, and sociological perspective. Inconsistencies between the Criminal Procedure Code (KUHAP) and sectoral regulations, limited numbers and capacity of investigators, and community resistance to retributive views are key

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<sup>28</sup>Ari Andhika Thomas, Andri Winjaya Laksana, "Formulation of the Public Prosecutor's Authority in the Legal Certainty-Based Judicial Process," *Ratio Legis Journal*, Vol. 3, No. 4, 2024, <http://dx.doi.org/10.30659/rlj.3.4.131-150>

challenges. Optimization efforts need to be made through regulatory unification in a special law or revision of the KUHP, increasing investigator capacity through penal mediation training, and community outreach involving traditional and religious leaders. With these steps, RJ has the potential to become a legally effective but also socially and culturally acceptable instrument for resolving minor assault cases in Bintan. The Bintan Police need to strengthen the capacity of investigators through specialized training in penal mediation and restorative justice, as well as establishing a criminal justice unit or team specifically tasked with handling minor cases. Furthermore, internal oversight mechanisms must be strengthened to prevent abuse of discretion in the implementation of criminal justice and to maintain accountability. This will improve the quality and legitimacy of criminal justice implementation at the investigative level. The government needs to harmonize regulations by explicitly including the RJ mechanism in the Criminal Procedure Code (KUHP) or creating a special RJ law, thereby providing legal certainty for officers, victims, and perpetrators. Furthermore, the public needs to be educated through outreach and the involvement of traditional and religious leaders, so that RJ is understood as a form of restorative justice that aligns with local culture, not a weakening of the law. This way, the implementation of RJ at the Bintan Police can be more effective and widely accepted.

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