

The Implementation of Restorative Justice in Tipiring Cases as an Effort to Reduce Suspects in Detention

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ABSTRACT

This study examines the application of restorative justice in handling minor criminal offenses as an effort to reduce the number of detainees in detention centers. The current handling of minor offenses in Indonesia is often considered disproportionate, as imprisonment is frequently imposed despite the relatively small impact of such crimes. This situation contributes to overcrowding in correctional institutions and increases the burden on the criminal justice system. Restorative justice offers an alternative approach that emphasizes dialogue, mediation, and reconciliation between the offender and the victim in order to restore the social relationship that has been disrupted by the crime. This research employs a normative juridical method by analyzing relevant laws, regulations, and legal literature concerning the implementation of restorative justice in Indonesia. The findings indicate that restorative justice can provide a more effective, humane, and efficient solution in resolving minor criminal cases. Through this approach, victims can obtain compensation and a sense of justice, while offenders are given the opportunity to take responsibility and reintegrate into society without the negative stigma of imprisonment. Therefore, restorative justice can serve as an important instrument in reducing the number of detainees and improving the effectiveness of the criminal justice system in Indonesia

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1. INTRODUCTION

Indonesia is a state of law (rechtsstaat) that places law as the main basis in the implementation of state life. This is affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that Indonesia is a state of law. Thus, all aspects of people's lives, both in the social, political, economic, and security fields must be regulated and carried out based on the applicable laws (Busthami, 2017). Law has an important function in maintaining public order and protecting the rights of citizens from various forms of law violations (Prasetyo & Herawati, 2022).

In the criminal law system in Indonesia, the punishment of perpetrators of criminal acts still tends to be oriented towards a repressive approach or retributive justice that emphasizes the imposition of punishment as a form of retribution for the perpetrator's actions. This paradigm is reflected in the penal system which is still based on the Criminal Code (KUHP) which is a legacy of Dutch colonial law (Lubis, 2022). This approach often focuses on prison sentences as the main form of punishment for perpetrators, including minor crimes.

The application of imprisonment for minor crimes (tipiring) is considered less effective and does not always reflect a sense of justice in society. In some cases, perpetrators of minor crimes are still processed through the criminal justice system until sentenced to prison, even though the losses incurred are relatively small. This condition not only causes public dissatisfaction with law enforcement, but also has an impact on the increasing number of inmates in correctional institutions, causing overcapacity in various detention centers and correctional institutions (Hamzani, 2022).

In addition, the process of resolving cases through formal judicial channels often takes a long time and costs a lot of money. The penalty-oriented criminal justice system has also not been fully able to resolve the conflicts that occur between perpetrators and victims as a whole. Therefore, an alternative approach is needed that is more effective, efficient, and oriented towards restoring relationships between the parties involved in a criminal act.

One approach that can be used in resolving misdemeanor cases is restorative justice. Restorative justice is an approach to criminal case resolution that focuses on restoring the relationship between perpetrators and victims through a process of dialogue, mediation, and community involvement in seeking a just solution (Maulana & Agusta, 2021). This approach not only focuses on punishing the perpetrators, but also seeks to repair the losses suffered by the victims and restore social balance in society.

In Indonesia, the concept of restorative justice has begun to be applied in the criminal justice system through various regulations, such as the Prosecutor's Office of the Republic of Indonesia Regulation Number 15 of 2020 concerning the Termination of Prosecutions Based on Restorative Justice and the National Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice. The implementation of this policy is expected to provide a more humane alternative to criminal case resolution and be able to reduce the burden on the criminal justice system (Sihombing & Nuraeni, 2023).

Thus, the application of restorative justice in the settlement of minor crimes is expected to be a solution to reduce the number of suspects who must undergo legal proceedings up to the stage of criminal detention in prison. This approach is also expected to be able to create a fairer, more efficient case resolution, and provide benefits for perpetrators, victims, and society at large.

Based on this description, this study aims to examine the application of restorative justice in petty crime cases as an effort to reduce the number of suspects in detention centers and its impact on petty crime offenders.

2. METHODS

This study uses a descriptive normative legal research method. Normative legal research is research that is carried out by examining and analyzing legal materials sourced from laws and regulations, legal literature, and other legal documents related to the problem being researched. This research aims to understand and examine the application of the concept of restorative justice in the settlement of minor crimes as an effort to reduce the number of suspects in prison. Normative legal research focuses on the applicable legal norms and how these norms are applied in law enforcement practices (Marzuki, 2017).

The approach used in this study is the statute approach. This approach is carried out by examining various laws and regulations related to the application of restorative justice in the criminal justice system in Indonesia. Some of the regulations that are the basis for the study in this study include the Criminal Code (KUHP), Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHP),

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Regulation of the Prosecutor's Office of the Republic of Indonesia Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice, and the Regulation of the National Police of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Acts Criminal Offences Based on Restorative Justice.

In this study, the legal materials used consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials are binding legal materials, such as laws and regulations related to the criminal justice system and the application of restorative justice. Secondary legal materials are in the form of law books, scientific journals, research results, and other scientific writings that discuss misdemeanor crimes and the concept of restorative justice. Meanwhile, tertiary legal materials are used as a complement to provide explanations of primary and secondary legal materials, such as legal dictionaries and Indonesian dictionaries.

The technique of collecting legal materials in this study is carried out through library research. Literature studies are carried out by collecting various legal sources that are relevant to research problems, then studied and analyzed to gain a comprehensive understanding of the concept and application of restorative justice in solving minor crimes. The data obtained from these various sources are then systematically compiled to support the research analysis.

The analysis of legal materials in this study was carried out qualitatively with an analytical descriptive approach. Qualitative analysis is carried out by examining the collected legal materials, then connecting them with research problems to gain a deep understanding of the application of restorative justice in the criminal justice system. The results of the analysis are then presented in the form of a systematic and descriptive description to answer the formulation of the research problem and provide a clear picture of the effectiveness of the application of restorative justice in solving minor crimes

3. FINDINGS AND DISCUSSION

A. Application of Restorative Justice in the Settlement of Misdemeanor Crimes

In the criminal justice system in Indonesia, the settlement of a criminal case is generally carried out through a litigation process involving investigation, investigation, prosecution, and examination in court. This process often takes a long time and costs a lot of money. This condition also occurs in the handling of misdemeanors, so that the process of resolving cases through formal judicial channels is considered less effective and efficient when compared to the impact of losses caused by these criminal acts (Adiesta, 2021).

The case settlement system through litigation also often results in a win-lose solution, so it is not uncommon to cause dissatisfaction for the party who feels aggrieved. This can lead to prolonged conflicts between perpetrators and victims, and even cause social tension in society. In addition, resolving cases through the courts also has the potential to cause a buildup of cases in judicial institutions and increase the workload of law enforcement officials (Iskandar, 2024).

In the context of handling minor crimes, the use of prison penalties is also considered less effective because a relatively short sentence period does not always provide a deterrent effect for the perpetrator. In some cases, even prison sentences can have negative impacts on the perpetrator, such as social stigma and difficulty in reintegrating with society. In addition, the high number of inmates also causes overcapacity in correctional institutions, causing various problems in the correctional system in Indonesia (Hamzani, 2022).

As an alternative to more effective and humane criminal case resolution, the concept of restorative justice began to be introduced in the criminal justice system in Indonesia. Restorative justice is an approach to resolving criminal cases that focuses on restoring the relationship between perpetrators and victims through dialogue, mediation, and community involvement in the case settlement process (Maulana & Agusta, 2021). This approach aims to create a balance between the interests of the victim, the perpetrator, and the community by prioritizing the principle of deliberation and the recovery of losses caused by criminal acts.

In Indonesia, the implementation of restorative justice has been regulated in various laws and regulations, including the Prosecutor's Office of the Republic of Indonesia Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice **and** the National Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice. Through these regulations, law enforcement officials are given the authority to resolve certain criminal cases through the restorative justice approach if certain conditions are met, such as the perpetrator committing a criminal act for the first time, criminal threats of no more than five years, and the existence of a peace agreement between the perpetrator and the victim.

In practice, the implementation of restorative justice is carried out through a mediation process involving the perpetrator, the victim, the families of both parties, and community leaders or other related parties. Through the dialogue process, the perpetrator is given the opportunity to admit his mistakes and take responsibility for his actions by compensating for losses or repairing the damage caused. Meanwhile, victims are also given the opportunity to convey the losses experienced and obtain proper recovery (Sihombing & Nuraeni, 2023).

With the restorative justice approach, the settlement of criminal cases is no longer solely oriented towards giving punishment to the perpetrators, but rather emphasizes on restoring social relations that have been disrupted due to criminal acts. Therefore, the application of restorative justice is considered more capable of creating substantive justice for all parties involved in a criminal case.

B. The Impact of the Implementation of Restorative Justice on Perpetrators of Petty Crimes

The application of restorative justice in the settlement of misdemeanor crimes has various positive impacts, both for perpetrators, victims, and the community. One of the most significant impacts is to provide an opportunity for perpetrators to account for their actions without having to serve a prison sentence. Through the process of dialogue and mediation, the perpetrator can understand the impact of his actions on the victim and try to correct the mistakes that have been made.

In addition, the restorative justice approach can also help perpetrators to avoid the social stigma that often arises due to the criminal process through formal justice channels. By not serving a prison sentence, perpetrators have a greater opportunity to reintegrate with society and continue their normal lives. This can also reduce the likelihood of **recidivism**, which is the repetition of criminal acts by the perpetrator after serving his sentence (Zehr, 2020).

In terms of the criminal justice system, the implementation of restorative justice also provides benefits in the form of time and cost efficiency in resolving cases. Resolving cases through restorative justice mechanisms can generally be done in a shorter time compared to formal judicial processes that must go through various procedural stages. In addition, the use of this approach can also reduce the workload of law enforcement officials and reduce the number of cases that must be resolved in court.

Furthermore, the implementation of restorative justice also contributes to reducing the number of prisoners in detention centers and correctional institutions. With a reduction in the number of inmates who have to serve prison sentences, the problem of **overcrowding** in correctional institutions can be minimized. This also has a positive impact on the effectiveness of the correctional system in coaching inmates.

Thus, it can be concluded that the application of restorative justice in the settlement of misdemeanor crimes not only provides benefits for perpetrators and victims, but also makes a positive contribution to the effectiveness of the criminal justice system as a whole. This approach is expected to be an alternative to solving criminal cases that are more fair, humane, and in accordance with the values of justice that live in society.

C. Effectiveness of the Implementation of Restorative Justice in the Criminal Justice System

The application of restorative justice in the settlement of misdemeanor crimes is basically a form of reform in the criminal justice system in Indonesia. This approach comes in response to the weaknesses of the conventional criminal justice system, which has been more focused on punishing

perpetrators. In practice, penal systems that are oriented towards imposition of prison sentences often do not provide comprehensive solutions to the conflicts that occur between perpetrators and victims. Therefore, restorative justice is seen as an approach that is able to provide more effective and just solutions for all parties involved in a criminal act.

Restorative justice places the victim, the perpetrator, and the community as parties who have an important role in the criminal case resolution process. This approach aims to restore social relations disrupted by criminal acts through a process of dialogue and deliberation between the parties. With direct involvement between the perpetrator and the victim, the case settlement process can provide an opportunity for the perpetrator to realize the mistakes that have been made and be responsible for the losses experienced by the victim. On the other hand, victims can also get recovery for the losses experienced, both materially and psychologically.

The effectiveness of the implementation of restorative justice can also be seen from its ability to reduce the number of cases that must be resolved through the formal justice process. Case settlement through this mechanism can be done faster and simpler than the criminal justice process which must go through various procedural stages. In addition, resolving cases through restorative justice can also reduce costs that must be incurred by the state in the law enforcement process.

In the context of the correctional system, the application of restorative justice also has a positive impact on reducing the number of inmates who must serve prison sentences. The high number of inmates in correctional institutions often causes overcrowding, which ultimately causes various problems in the process of fostering inmates. With the settlement of cases through restorative justice, the number of perpetrators of minor crimes who must serve prison sentences can be reduced, so that the problem of overcrowding in correctional institutions can be minimized.

In addition, the application of restorative justice is also in line with the cultural values of the Indonesian people who uphold the principles of deliberation and kinship in resolving a conflict. In the life of the Indonesian people, peaceful conflict resolution through deliberation has become part of local wisdom that has developed for a long time. Therefore, the application of restorative justice in the criminal justice system in Indonesia can be said to be in accordance with the social and cultural values that live in society.

However, the application of restorative justice in law enforcement practices in Indonesia still faces various challenges. One of the main challenges is that there is still limited understanding from some law enforcement officials about the concept and mechanism of restorative justice. In addition, the lack of fully integrated regulations also causes the implementation of restorative justice in various law enforcement agencies to still not run optimally.

Therefore, a more comprehensive effort is needed to increase the understanding and capacity of law enforcement officials regarding the concept of restorative justice. In addition, there is also a need for a synchronization of regulations that regulate the implementation of restorative justice so that it can be applied more effectively and consistently in the criminal justice system in Indonesia.

4. CONCLUSION

Based on the results of research and discussion on the Implementation of the Rights of Cooperative Perpetrators (Justice Collaborators) to Get Reduced Sentences in the Crime of Murder, several conclusions can be drawn as follows: Based on the results of research and discussion on the application of restorative justice in the settlement of minor crimes as an effort to reduce the number of suspects in prison, it can be concluded that the handling of minor crimes in the The criminal justice system in Indonesia has so far tended to use a repressive approach through the imposition of prison penalties. This approach is considered less effective because it is not always able to resolve conflicts between perpetrators and victims comprehensively and has the potential to cause various problems, such as the increasing number of inmates and the occurrence of overcrowding in correctional institutions.

The application of restorative justice is one of the alternatives to solving criminal cases that is more humane and oriented towards restoring the relationship between perpetrators and victims. Through

this approach, case settlement is carried out through a process of dialogue, mediation, and deliberation involving the perpetrator, the victim, the families of both parties, and community leaders. Thus, the perpetrator is given the opportunity to account for his actions by repairing the losses experienced by the victim, while the victim obtains a fairer and more meaningful recovery.

In addition, the implementation of restorative justice also provides various benefits in the criminal justice system, including accelerating the case settlement process, reducing the workload of law enforcement officials, and reducing the number of suspects who must undergo detention processes in detention centers and correctional institutions. This approach is also in line with the cultural values of the Indonesian people who uphold the principles of deliberation and family conflict resolution.

Thus, the application of restorative justice in the settlement of misdemeanor crimes can be an effective solution in creating a more fair, efficient, and recovery-oriented criminal justice system. Therefore, a commitment from law enforcement officials is needed to implement an optimal restorative justice approach and increase public understanding of the importance of resolving criminal cases through a more humane and fair approach.

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