



Legal Review of The Implementation of Restorative Justice in Criminal Acts of Assault And Banging in The South Jakarta Police Area

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Abstract

A criminal act is an act of a person of his own will or of another person carried out by him and the behavior is an act that is prohibited and at the same time gives rise to a criminal responsibility by the perpetrator of the act and the act itself. Every act of criminal abuse and assault results in physical, psychological, sexual and/or neglectful misery or suffering, including threats to commit acts. coercion or deprivation of liberty in an unlawful manner is a criminal act of abuse and assault. A person who commits a crime of allowing, committing, ordering to do, participating in committing violence against criminal acts of abuse and assault must still be responsible because a person cannot be held responsible and sentenced to a criminal offense if he does not commit a criminal act. To be further examined how the regulation of criminal acts of abuse and assault allows, orders to do or participates in committing violence, then based on Indonesian criminal law and how the criminal responsibility of children who commit the crime of allowing, ordering to do or participating in committing violence against criminal acts of abuse and assault. The research method used in this study is the normative legal research method, from the results of the study it was found that the regulation of criminal acts of children who allow, order or participate in committing violence, criminal acts of abuse and mob violence in Article 76C in conjunction with Article 80 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection and criminal responsibility of children who commit criminal acts of allowing, ordering or participating in committing violence against children to death by serving a maximum of half of the maximum prison sentence for adults as regulated in Paul 81 paragraph (2) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Clarifying the meaning of acts of violence in the KUI IP. Legislation, Government Regulations, Permenkumham and the Government must form legislation, government regulations, Permenkumham that are even stricter in providing sanctions for perpetrators of criminal acts of abuse and mob violence.

Keywords: *persecution, mob violence*

INTRODUCTION

A crime is an act that involves a violation of legal norms, which is done either intentionally or unintentionally by a person, resulting in legal consequences. In this context, abuse and mobbing are included in criminal acts that are specifically regulated in Indonesian criminal law because of their nature that damages the social order and has a significant impact on the victim. Abuse can be defined as an act that causes pain, physical suffering, or injury, while mobbing involves violent acts carried out together by more than one person against the same victim. Both of these crimes often cause prolonged physical and psychological trauma for the victim.

Acts of abuse and mob violence not only have an impact on the individual victim, but also have the potential to disrupt social stability in society. In some cases, these acts can create a sense of insecurity in society and cause concerns about legal protection for

individuals. Therefore, handling of these crimes must be carried out firmly and fairly, so that public trust in the legal system is maintained.

According to the Indonesian Criminal Code (KUHP), any act that falls into the category of assault and mob violence is subject to criminal penalties. Article 351 of the Criminal Code regulates the crime of assault, where anyone who commits an act of violence against another person with the aim of hurting, injuring, or causing suffering can be subject to imprisonment. Meanwhile, mob violence is regulated in Article 170 of the Criminal Code, which specifically mentions acts of violence committed together against people or property and is subject to a heavier penalty than the crime of assault committed individually.

In the context of regulating this criminal act, there is also the role of international law and human rights in protecting individuals from violence. Abuse and mob violence violate the basic rights of every person to live in safety, free from violence, and protected by law. Thus, strict law enforcement in cases of abuse and mob violence is not only the responsibility of the state in implementing criminal law, but also an obligation to protect the fundamental rights of citizens.

Along with the development of the times, another aspect that has emerged in handling this crime is the involvement of children as perpetrators. In some cases, children are involved both as the main perpetrators and as parties who participate in criminal acts of abuse and assault. This poses its own challenges in law enforcement, because children are considered a vulnerable group and require special protection. To that end, Indonesia has issued various regulations, such as Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, which regulates the legal treatment of children in conflict with the law.

In resolving cases it is not uncommon to do so by handling criminal acts based on Restorative Justice referring to the Regulation of the Chief of the Republic of Indonesia National Police Number 6 of 2019 concerning Criminal Investigation, which in Article 12 regulates the settlement of criminal cases with a Restorative Justice approach. In addition, referring to the Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice.:

Table 1.
Data on the Number of Cases of Ordinary Assault (Article 351 of the Criminal Code)

Year	Amount Case	<i>restorative justice</i>	Justice
2019	32	12	20
2020	32	14	18
2021	17	10	7

Source: South Jakarta Police Criminal Investigation Unit

If someone commits a criminal act, it must be followed by criminal threats whose material has been regulated in the Criminal Code. However, law enforcement officers at the South Jakarta Police did not implement the rules according to the formulation in Article 351 of the Criminal Code. The South Jakarta Police resolved the case peacefully with the Restorative Justice approach as regulated in Article 12 of Perkap No. 6 of 2019 concerning Criminal Investigation and Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice.

Restorative Justice is the resolution of criminal acts involving the perpetrator, victim, victim's family, perpetrator's family, community leaders, religious leaders, traditional leaders or stakeholders to jointly seek a just resolution through peace by emphasizing restoration to the original state. In 2019 there were 32 cases of ordinary abuse, 12 of which were resolved through Restorative Justice, while cases could not be resolved outside the criminal courts. In 2020 there were 32 cases of ordinary abuse, 14 of which were resolved through Restorative Justice, while 18 cases could not be resolved outside the criminal courts. In 2021 there were 17 cases of ordinary abuse, 10 of which were resolved through Restorative Justice, while 7 cases could not be resolved outside the criminal courts.

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It can be seen again that every year there are cases of ordinary abuse that fail to be resolved outside the criminal courts.

The juvenile criminal justice system in Indonesia is based on the principle of child protection, where children involved in criminal acts are given different treatment than adults. Children are considered not yet fully capable of being legally responsible like adults, so the sentences imposed on them are usually lighter, with the aim of providing an opportunity for children to rehabilitate themselves and return to contributing positively to society. However, acts of violence such as abuse and mob violence must still be taken seriously, even when involving children as the perpetrators, because their impact on the victims cannot be ignored.

One of the main challenges in law enforcement against criminal acts of abuse and ganging up on children is achieving a balance between providing justice for victims and rehabilitation for child perpetrators. The government and policymakers must consider various legal and moral aspects in formulating regulations and implementing policies related to handling these cases. With the existence of a juvenile criminal justice system, it is hoped that a system can be created that not only punishes, but also provides opportunities for children to correct their mistakes and start their lives better.

Formulation of the problem

From this background, several important problems can be formulated which will be the focus of study in this research, namely:

1. What is the procedure for resolving a criminal case of assault carried out using Restorative Justice at the South Jakarta Police?
2. What considerations do investigators take into account when providing Restorative Justice regarding the case of the criminal assault at the South Jakarta Police?

METHOD

This study uses a sociological legal approach. This approach examines the perception and legal behavior of society and the effectiveness of positive law that applies in society. This study was also conducted by collecting primary and secondary data. Primary data was obtained through direct interviews with related parties in the field, such as the implementation of Restorative Justice in criminal acts of abuse at the investigation level at the South Jakarta Police. While secondary data was obtained from various legal materials, such as laws and regulations, scientific books, and articles relevant to the research topic.

In this study, the data analysis method used is qualitative analysis. This method allows researchers to examine and understand the data collected from both interviews and field observations. Data obtained from respondents and documents are analyzed to gain a deep understanding of the implementation of Restorative Justice, the obstacles faced, and the legal aspects involved. The analysis is carried out descriptively so that it can provide a clear and detailed explanation of the phenomenon being studied.

This research relies on legal literature as a theoretical basis and main reference material, including Law Number 8 of 1981 concerning the Criminal Procedure Code, Law Number 2 of 2002 concerning the Indonesian National Police, and Regulation of the Chief of Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice.

RESULTS AND DISCUSSION

Results

Investigation of Criminal Acts of Assault by Children Resulting in Serious Injuries at the South Jakarta Police

The investigation of the crime of ganging up on children at the South Jakarta Police Resort refers to the provisions of Article 170 of the Criminal Code. The crime of ganging

up on children is defined as a joint act carried out openly and using violence against people or objects, which in this case results in serious injury to the victim. In the context of this crime, children involved as perpetrators are processed by considering their status as minors. Therefore, the legal process applied also takes into account the rules in Law No. 35 of 2014 concerning Child Protection and Law No. 11 of 2012 concerning the Juvenile Criminal Justice System. In this law, children in conflict with the law are given special treatment, including in terms of investigation, prosecution, and implementation of punishment.

The investigation process carried out by the South Jakarta Police does not only focus on the criminal aspect, but also seeks to ensure that the rights of children as perpetrators are maintained. The South Jakarta Police collaborate with various parties, including psychologists and social workers, to conduct an assessment of the psychological and social conditions of the child perpetrators. This assessment is important to determine the child's level of awareness of their actions and the potential for rehabilitation that can be carried out. In addition, in this investigation process, the police involve the parents or guardians of the child perpetrators to participate in every stage of the investigation, ensuring that the child receives proper guidance during the legal process.

In some cases, children who commit crimes of assault that cause serious injuries can also be placed in social rehabilitation institutions to undergo a coaching program. This is done with the aim that children not only receive punishment, but also receive education and training that can help them return to society without negative stigma. The South Jakarta Police also collaborate with the Ministry of Social Affairs and other child rehabilitation institutions to ensure that the rehabilitation process runs well and effectively.

The investigation process for these children is also carried out with a more preventive approach, where the child perpetrator is given an understanding of the consequences of his actions and how he can avoid similar behavior in the future. The investigation is carried out carefully so as not to cause additional trauma to the child perpetrator, while still upholding the law and ensuring justice for the victim. This investigation also involves collecting relevant evidence, such as witness statements, video recordings, and medical reports from victims who suffered serious injuries due to the assault. All of this evidence is collected to build a strong case without ignoring the rights of children involved in the crime.

Discussion

Procedures for Resolving Cases of Criminal Assault Carried Out with Restorative Justice at the South Jakarta Police

The South Jakarta Police have adopted Restorative Justice as one of the methods for resolving cases involving children as perpetrators of criminal acts. Restorative Justice is an approach that prioritizes conflict resolution through dialogue and mediation between the parties involved, namely the perpetrator, the victim, the families of both parties, and the community. This approach is considered more appropriate in handling children in conflict with the law because it prioritizes recovery and rehabilitation rather than punishment alone. In cases of assault committed by children, Restorative Justice not only aims to punish the perpetrator, but also to provide solutions that improve the relationship between the perpetrator and the victim, and prevent similar actions from occurring in the future.

The procedure for implementing Restorative Justice at the South Jakarta Police begins with mediation between the perpetrator, the victim, and their families. In this process, the police act as facilitators who ensure that both parties can reach a fair agreement. This mediation process aims to provide an opportunity for the perpetrator to be responsible for his actions and for the victim to obtain justice without having to go through a formal and lengthy court process. During this process, the perpetrator is usually asked to admit his mistakes and apologize to the victim. In addition, the perpetrator can also be asked to provide compensation in the form of financial or social work as part of the recovery effort.

Restorative Justice in cases involving children has several advantages compared to the formal justice process. One of the main advantages is the flexibility and speed in resolving cases. The formal justice process can take months, even years, while Restorative Justice allows for resolution in a much shorter time. In addition, Restorative Justice allows the child perpetrator to remain in the family and community environment during the resolution process, so that the child does not have to experience the isolation that often occurs in the formal justice process.

The implementation of Restorative Justice is also considered more effective in cases involving children because it allows victims and perpetrators to interact directly, which can help the healing process for both parties. For victims, this process provides an opportunity to directly convey the impact felt as a result of the crime, while for perpetrators, it allows them to understand the real impact of their actions on the victim and society.

However, although Restorative Justice offers many benefits, there are challenges in its implementation. Some parties, including victims or families of victims, may feel that justice can only be achieved through a formal court process, which involves criminal penalties for the perpetrators. Therefore, the South Jakarta Police often have to provide understanding and education to victims and their families about the benefits and goals of this approach. In addition, Restorative Justice also requires the willingness of all parties to be actively involved in the mediation and conflict resolution process.

Implementation of Restorative Justice for Criminal Acts of Assault at the Investigation Level at the South Jakarta Police

This study found that the implementation of Restorative Justice at the investigation level at the South Jakarta Police has been quite effective in handling criminal cases involving children. Restorative Justice is applied to cases of assault committed by children, where the mediation process is carried out from the investigation stage to reach a peaceful agreement between the perpetrator and the victim. This process involves direct mediation facilitated by the police and social workers, where the perpetrator and victim are given the opportunity to dialogue and resolve the problem peacefully.

The implementation of Restorative Justice at the South Jakarta Police also prioritizes the principle of justice for all parties involved. The perpetrator is asked to admit his mistake and promise not to repeat the act. On the other hand, the victim is given the opportunity to convey the impact of the crime he experienced and receive compensation or damages from the perpetrator. Restorative Justice not only aims to resolve the problem legally, but also to repair social relations that have been disrupted by the crime.

This process also involves the community, especially in terms of monitoring the perpetrators after an agreement is reached. In some cases, the perpetrators are required to do social work as a form of responsibility for their actions. This not only teaches the perpetrators a lesson, but also helps them to be accepted back into society. The implementation of Restorative Justice also contributes to reducing the burden of formal justice, while reducing the rate of recidivism among children involved in criminal acts.

Factors Inhibiting the Implementation of Restorative Justice for Criminal Acts of Assault at the Investigation Level at the South Jakarta Police

Although Restorative Justice shows positive results, this study also found several factors that hinder its optimal implementation. One of the main factors is the lack of understanding and support from the community and law enforcement officers regarding the concept of Restorative Justice. Many officers still believe that the resolution of criminal cases must be done through formal court channels. This lack of understanding often causes resistance to the implementation of the Restorative Justice approach, especially in cases that are considered serious, such as assaults that cause serious injuries.

Another factor that hinders the implementation of Restorative Justice is the lack of adequate facilities and resources. Restorative Justice requires trained facilitators, as well as support from various parties, including social workers and psychologists, to ensure that the process runs smoothly. In addition, the mediation process often takes a long time, which is not always available in a police system that is busy handling various other cases.

CONCLUSION

The application of restorative justice in handling criminal acts in Indonesia has been regulated through several important regulations, including the Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice, and the Regulation of the Republic of Indonesia Attorney General's Office Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. In addition, the Decree of the Director General of the General Courts Number 1691/DJU/SK/PS.00/12/2020 also regulates guidelines for the application of restorative justice in the general court environment. In the context of resolving the crime of assault involving children at the South Jakarta Police, the application of restorative justice has been recognized as an effective approach to achieving a more equitable conflict resolution that prioritizes rehabilitation.

It is expected that there will be clear standard operating procedures for investigators as a guideline in resolving the assault case at the South Jakarta Police, so that the restorative justice process can run well and consistently. Second, the Indonesian National Police needs to increase socialization regarding restorative justice to all levels of society and law enforcement officers, in order to avoid obstacles in its implementation and ensure that the objectives of the law—namely justice, benefit, and legal certainty—can be achieved optimally. Thus, the police's duties as law enforcers can be carried out more effectively and in accordance with the principles of humanistic restorative justice.

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