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Minor Assault Crimes from a Restorative Justice Perspective

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Abstract: Minor assault is a form of crime that often occurs in society. Although it is classified as minor, this crime still has psychological and social impacts on the victim. In the conventional criminal justice system, the resolution of minor assault cases is generally carried out through a litigation process that is oriented towards punishing the perpetrator. However, this approach often does not resolve the root of the problem or restore the relationship between the perpetrator and the victim. Therefore, the restorative justice approach is a relevant and humane alternative. This approach prioritizes dialogue, mediation, and agreement between the perpetrator, victim, and community in order to create mutual recovery. This article discusses the concept of minor assault crimes, their characteristics, and how the application of restorative justice can provide more effective, efficient, and socially just solutions in resolving them. Through normative studies and qualitative approaches, this study shows that restorative justice has the potential to reduce the burden of justice and strengthen humanitarian values in Indonesian criminal law.

Keywords: Minor assault, restorative justice, criminal acts, recovery, criminal justice system.

INTRODUCTION

In social life, disputes and conflicts are commonplace. Sometimes, minor friction that stems from differences of opinion, misunderstandings, or momentary emotions can lead to acts of violence, including forms of physical violence that do not cause serious injuries or are referred to as minor abuse. This phenomenon is quite often found in the surrounding environment, such as between neighbors, in households, and between co-workers. Although classified as a minor crime, its impact can still harm social relationships and cause discomfort in living together. Minor abuse is regulated in Article 352 of the Criminal Code (KUHP), which expressly states that abuse that does not result in illness or obstacles to work can still be punished with imprisonment or a fine. However, in practice, cases like this often become a burden in the law enforcement process, because the long, complicated, and expensive formal procedures are not commensurate with the severity of the crime. On the other hand, the litigation process that prioritizes punishment often does not touch on aspects of substantive justice for the parties involved, especially victims and perpetrators who may have had close relationships before. In the criminal justice system in Indonesia, the resolution of a case is almost always taken through a retributive approach, namely an approach that emphasizes revenge and punishment for the perpetrator of the crime. This approach views crime as a violation of the state, not against individuals or social relations. Thus, the main focus becomes

on punishing the perpetrator, while the needs of the victim and the restoration of social relations are often neglected. As a result, the legal settlement that should be calming can actually deepen the conflict.

In the midst of the various weaknesses of the conventional justice system, a more humane and socially dimensional approach was born, namely restorative justice. This approach is present as an alternative to resolving criminal cases, with an emphasis on restoring the condition of the victim, perpetrator, and the community affected by a crime. Within the framework of restorative justice, crime is seen as a violation of humans and social relations, so its resolution must involve the three main elements: the perpetrator, the victim, and the community. Restorative justice is not only about forgiving the perpetrator, but more than that, namely about rebuilding mutual trust, creating a space for dialogue, and fostering moral responsibility from the perpetrator for the impact of his actions. The basic principles of this approach are active participation from all parties involved, fair and meaningful resolution, and real efforts to repair the losses or injuries caused by the crime. In Indonesia, the application of restorative justice has found a place in the legal system, although not yet comprehensively. Several policies have been issued, such as Attorney General Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, and Circular Letter of the Chief of Police Number SE/2/II/2021 concerning the Implementation of Restorative Justice in the Settlement of Criminal Cases. These two regulations open up great opportunities to resolve minor cases, including minor assaults, through restorative justice mechanisms. This means that the state is starting to provide space for resolving cases outside the formal justice system, with the note that the approach is carried out voluntarily, transparently, and with fair results for all parties. However, in its implementation, the application of restorative justice is not as easy as turning the palm of your hand. There are still many law enforcement officers who adhere to the retributive approach and do not fully understand the philosophy of restorative justice. On the other hand, society still has a paradigm that justice can only be achieved through punishment, not through mediation or dialogue. Such a legal culture in society is a challenge in itself in developing this approach widely.

Nevertheless, a number of successful applications of restorative justice have shown positive impacts, especially in handling cases of minor assault. For example, in a case of a quarrel between neighbors that resulted in a minor beating, the police together with local community leaders mediated the two parties so that a peaceful agreement was reached. The perpetrator admitted his mistake, apologized openly, and was willing to provide compensation, while the victim forgave and withdrew the report. This process not only resolved the problem legally, but also restored disturbed social relations. Similar cases show that restorative justice can be effective if there is a shared commitment to resolving the conflict peacefully. With this background, it is important to examine more deeply how the restorative justice approach can be applied in cases of minor assault crimes in Indonesia. There needs to be a comprehensive understanding of the characteristics of minor abuse, the obstacles in handling it conventionally, and the opportunities and challenges in implementing restorative justice. This aims to encourage the transformation of the legal system to be more inclusive, efficient, and oriented towards recovery and social justice for all parties involved.

METHOD

This study uses a qualitative approach with a normative legal research method, which is an approach carried out by reviewing and analyzing applicable laws and regulations, legal theories, and doctrines relevant to the main problem. This study does not focus on empirical data in the field, but rather on the analysis of legal norms and their application in the context of restorative justice for minor assault crimes. The main data source in this study is secondary data obtained from primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations such as the Criminal Code (KUHP), Attorney General Regulation

Number 15 of 2020, and Circular Letter of the Chief of Police Number SE/2/II/2021. Secondary legal materials consist of law books, scientific journals, and articles discussing minor assault and restorative justice. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other supporting materials. The analysis technique used in this study is qualitative descriptive analysis. The author attempts to describe systematically and in depth the concept of minor assault, the shortcomings of the conventional criminal law system in resolving the case, and the potential and challenges of implementing restorative justice. The data that has been collected is analyzed to find the right and argumentative answers to the formulation of the problems proposed in this study.

RESULTS AND DISCUSSION

1. Concept of Mirror Assault Crimes

Minor assault is a form of crime against a person's body or physical condition that does not result in serious injury. In Indonesian criminal law, this crime is classified as a complaint offense, meaning that the legal process requires a complaint from the victim. This is emphasized in Article 352 paragraph (1) of the Criminal Code, which reads:

"Except for those mentioned in Article 353 and Article 356, assault that does not result in illness or an obstacle to carrying out work or a career shall be punished with a maximum of three months in prison or a maximum fine of four thousand five hundred rupiah."

Minor assault, in practice, usually involves physical actions that do not cause serious injury such as hitting, slapping, or pushing. Although the physical impact is not great, this act still violates legal norms and can disrupt social order. In various cases, minor assault often occurs in emotionally close relationships, such as within families, between neighbors, or coworkers. Therefore, handling it requires an approach that not only punishes, but also restores disturbed relationships.

2. Limitations of the Conventional Criminal Justice System

The Indonesian criminal justice system generally still applies a retributive approach, which emphasizes punishment of perpetrators of crimes. In this approach, the state acts as the authorized party to punish perpetrators for violations of applicable laws. However, this approach has various limitations when applied to cases of minor abuse. First, the lengthy and formal legal process is often disproportionate to the severity of the crime. Second, the retributive approach ignores the victim's need for recovery, and does not provide sufficient space for the perpetrator to be socially and morally responsible. Third, this system tends to create a disconnect between the perpetrator and the victim, even though in cases of minor abuse the perpetrator and victim often still have a relationship that must be maintained. The litigation process in a rigid and formal legal system can also worsen the victim's trauma, and create stigma for the perpetrator, especially if both live in the same social environment. As a result, the justice produced does not truly reflect the value of substantive justice, but is only procedural.

3. Restorative Justice as an Alternative Solution

Restorative justice is present as an approach that offers a more humane and comprehensive solution in resolving criminal acts. This approach views crime not merely as a violation of the law, but as a violation of individuals and social relationships. Therefore, the focus is not only on punishing the perpetrator, but also on the recovery of the victim, the responsibility of the perpetrator, and community involvement. According to Howard Zehr, one of the pioneers of the concept of restorative justice, restorative justice is a process that involves all parties involved in a violation of the law, with the aim of jointly identifying the losses that have occurred, the needs of the victim, and the responsibility of the perpetrator. This approach

allows the perpetrator to realize his mistake, the victim to get justice and recovery, and the community to play a role in maintaining social order. In the context of minor assault, restorative justice provides space for resolving cases through penal mediation. In this mediation, the perpetrator and victim sit together with a neutral facilitator (usually from law enforcement or community leaders), to express their feelings, hopes, and reach a settlement agreement that benefits both parties. The agreement can be in the form of an apology, compensation, community service, or other forms of mutually agreed recovery.

4. Implementation of Restorative Justice in Cases of Minor Assault

The application of restorative justice in cases of minor assault has begun in Indonesia, especially after the issuance of the Attorney General's Regulation and the Chief of Police Circular which provide a legal basis for this approach. In practice, this approach often begins at the police level, where investigators make mediation efforts between the victim and the perpetrator before the case goes to the prosecution stage. For example, in the case of a fight between two neighbors in Central Java that ended in pushing and slapping each other, the local police facilitated mediation between the two. The perpetrator admitted his mistake and was willing to apologize openly, while the victim forgave and withdrew the report. The process was carried out transparently, with the agreement of both parties, and recorded in the minutes of the peace agreement. A similar case also occurred in South Sulawesi, where a perpetrator of minor abuse against his own brother was resolved through restorative justice. The victim and perpetrator agreed to an apology, a sum of money as compensation, and a promise not to repeat the act. After the agreement was reached, the legal process was stopped and the perpetrator was not sentenced to prison.

5. Advantages and Challenges of Implementing Restorative Justice

The application of restorative justice in resolving minor abuse has several advantages. First, this approach is faster and more efficient because it does not go through a long trial process. Second, this approach provides space for the emotional recovery of the victim and the social responsibility of the perpetrator. Third, this approach maintains social harmony, especially when the perpetrator and victim have a close relationship. However, the application of restorative justice is also not without challenges. One of them is the lack of understanding from law enforcement officers and the community regarding the concept and benefits of this approach. Many officers still believe that justice can only be upheld through formal punishment, so they hesitate to use mediation. In addition, the absence of a specific law that comprehensively regulates restorative justice is also an obstacle. Although there are regulations from the Prosecutor's Office and the Police, these regulations do not have the same legal force as laws, so their implementation is still limited. Another challenge is the potential for misuse of the restorative justice mechanism, especially if it is used to free the perpetrator from legal responsibility without a fair and transparent process. Therefore, strict supervision and procedures are needed so that this approach is not misused by certain parties.

6. Strategy for Strengthening the Implementation of Restorative Justice

In order for restorative justice to be optimally implemented in cases of minor abuse, several strategies need to be implemented, including:

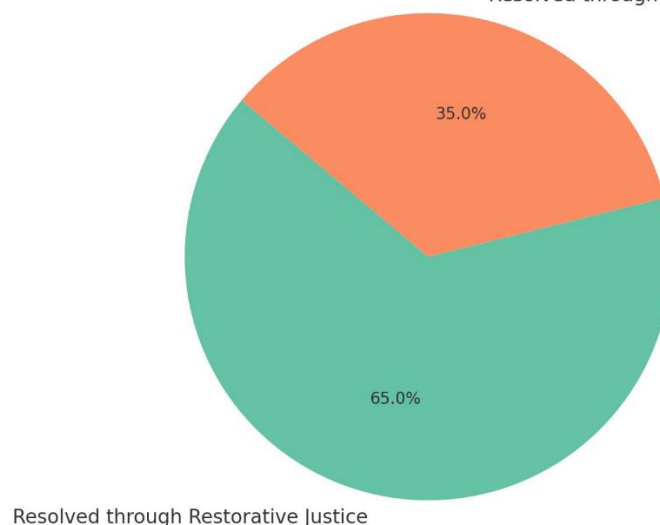
- a. Increasing the capacity of law enforcement officers through training and socialization regarding the principles, objectives, and mechanisms of restorative justice.
- b. Making stronger regulations in the form of special laws that regulate restorative justice, so that its implementation is more consistent and has a clear legal basis.
- c. Involvement of the community and traditional/local leaders in the case resolution process, because they have an important role in supporting the success of mediation.

- d. Strict supervision of the mediation process so that it is not misused to protect perpetrators who should be legally responsible.

7. Reflection on the Criminal Law Paradigm

Restorative justice invites us to reflect on the criminal law paradigm which has so far only been oriented towards punishment. In many cases, justice is not only about avenging wrongdoing, but also about how to provide space for the parties to resolve conflicts peacefully and humanely. Minor abuse, as a crime that often arises due to unresolved social conflicts, requires a more flexible, participatory, and conflict-resolution-oriented legal approach. Restorative justice offers this paradigm, and its implementation is a step forward in the renewal of national criminal law.

Resolution of Minor Assault Cases in Indonesia (Assumed Data)
Resolved through Court Proceedings



CONCLUSION

The issue of minor assault crimes, although categorized as light offenses, carries significant implications for social harmony and individual relationships. The traditional criminal justice system in Indonesia, which emphasizes retributive justice, often fails to provide meaningful resolution for both the victim and the offender in cases of minor assault. The rigid procedures and punitive approach tend to escalate conflicts, rather than resolve them. Restorative justice emerges as a transformative alternative that offers a more humane and effective mechanism for resolving minor criminal offenses. By focusing on repairing the harm, restoring relationships, and encouraging accountability, restorative justice aligns better with the values of peace, community involvement, and justice that is responsive to individual needs. The study concludes that the application of restorative justice in minor assault cases has the potential to reduce the burden on the judiciary, expedite case resolution, and foster reconciliation between parties. However, its successful implementation depends on proper legal frameworks, the readiness of law enforcement agencies, and public understanding of restorative processes. A strong commitment from all stakeholders—legal institutions, society, and policymakers is essential to realize a justice system that is truly restorative and inclusive.

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