

Implementation Of Restorative Justice By The Police On Defaming In Social Media

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ABSTRACT

The purpose of this research is to unravel the implementation of *restorative justice* by the police in criminal acts of defamation on social media, especially those that occur in the jurisdiction of the Gorontalo Regional Police. This type of research is empirical legal research using a field approach through interviews, supported by a *statute approach* and a *case approach*. The analysis used in this study is descriptive data analysis using a qualitative approach to secondary data and primary data. Based on the results of the study, the answers to the existing problems were obtained, that the effectiveness of the implementation of *restorative justice* by the police in the criminal act of defamation on social media in the Gorontalo Regional Police jurisdiction has actually been running in accordance with the expected restorative justice, although in its implementation it is still far in quantity when compared to the number of cases entered and processed through RJ. In 2019, 2020 and 2021 there were 11 cases of defamation that were resolved through RJ at the Gorontalo Regional Police and it is a success of the police as a mediator for resolving cases before entering the legal court process, the police have played their role in providing mediation offers to the parties in pursue restorative justice. All components involved in *restorative justice* or a restorative justice approach must implement in an integrated manner between the police, litigants, and community leaders as well as traditional leaders in cases of criminal defamation on social media.

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1. PRELIMINARY

A. Background

Society as something system already of course in embodiment always experience changes of, ¹including adjustment to the use of technology (social media) which often has a positive impact and sometimes can also hurt the order of social life. By because that in face progress that, often human faced with on various problems and problem, good which caused by himself both and caused by act people, but one thing is real today, that the law exists to protect every human right.

The State of Indonesia is a state of law (*rechtsstaat*), namely the law basically aims to achieve peaceful living together, which is harmony between order and peace, ²this is as stated in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that the State of Indonesia is a legal state which means that everything related to the life of society, nation and state is regulated according to applicable law, then based on this it is clear that all actions taken by the community as citizens cannot be separated from the legal instruments that regulate it. This is inseparable from the position of every person as a social being which basically has two elements, namely physical and mental, both of which are required to get protection from the legal side, including from the criminal law side.

Protection serves to protect and protect someone against weaker people. Legal protection can be interpreted as all government efforts to ensure legal certainty to provide protection to its citizens so that their rights as citizens are not violated and subject to sanctions for someone who violates these regulations in accordance with applicable regulations and will have consequences, especially in the enforcement of criminal law.

Law enforcement is one of the main milestones in the rule of law and is even placed as a separate part of the legal system. Furthermore, with law enforcement, any existing disputes can be resolved, be it disputes between fellow citizens, between citizens and the state, and between countries and other countries. The creation of law enforcement is an absolute requirement for a peaceful and prosperous Indonesian state.³

Law itself plays a role in society seen from two basic things, namely, as a means of *social control* and as a means of *social engineering*. ⁴As one that deserves to be investigated in relation to law enforcement currently rife in social life is related to criminal defamation cases, as well as the case that is most widely reported by the public to the police, especially in the jurisdiction of the Gorontalo Police.

Defamation is a crime that has been regulated in the Indonesian Criminal Code and

¹C. Dewi Wulansari, 2013, *Sociology Concepts and Theories*, Bandung: Refika Aditama, p. 127

²Soejono Soekanto, 2007, *Sociology An Introduction*, Jakarta: PT. Raja Grafindo Persada, p. 179.

³Fence M. Wantu, 2011, *Idee Des Recht*, Yogyakarta: Student Library, p. 4

⁴Erdianto Efendi, 2014, *Indonesian Criminal Law*, Bandung: Refika Aditama, p. 41

specifically regulated in the ITE Law, but in its development it is in line with carrying out the *Ultimum Remedium principle* which is one of the principles contained in Indonesian criminal law, and states that criminal law should be used as a last resort in terms of law enforcement ⁵, so in its current implementation cases related to defamation are always sought to be resolved through *Restorative Justice* before being resolved in the legal process (judicial process).

The results of an interview with one of the staff of the Disreskrimsus Section of the Gorontalo Police stated that:⁶

"Most of the Gorontalo Regional Police handle/implement RJ (*Restorative Justice*) in defamation cases (UU ITE), for example postings on social media that contain defamation."

The phenomenon of defamation cases causes a lot of harm among the community, especially as victims who are basically the party who suffers the most in a criminal act, because they do not get the appropriate protection provided by law to victims of defamation. Currently, the law only focuses more on providing criminal sanctions for perpetrators but does not pay attention to the protection or needs of victims of defamation who are already greatly harmed considering that it is in contact with a person's dignity.

The development of social media makes it easier for people to carry out various activities, including expressing opinions in public and socializing, however, often the submission of uploaded opinions leads to complaints of alleged criminal acts, especially defamation, along with data related to criminal acts of defamation handled within the jurisdiction Gorontalo Police:

Table. 1
Data on Information and Electronic Transactions (Defamation) Crime Cases Handled by the Gorontalo Police Ditreskrimsus 2019-2021

No	Year	Unfinished Case arrears	Login Report	Amount
		-		
1	2019	8	16	24
2	2020	19	8	27
3	2021	24	5	29

Source: Ditreskrimsus Polda Gorontalo

⁵Ahmad Sofian, 2020, *Ultimum Remedium in Employment Crimes* , <https://Business-Law.Binus.Ac.Id/2020/12/23/Ultimum-Remedium-dalam-Tindak-Pidana-Ketenagakerjaan/> (Accessed July 10, 2021 at 13.32 WITA)

⁶ Results of Interviews with Mr. Dodi Mahmud, SH. Staff of the Disreskrimsus Division of the Gorontalo Police (5 July 2021 at 11.00 WITA)

Seeing the high number of criminal acts of defamation in the last three years (2019, 2020 and 2021) as shown in table 1, it will be ironic if all the alleged perpetrators are sent to prison. This choice is increasingly confusing about the full capacity of prisons, which is currently one of the problems in the criminal justice process in Indonesia.

Legally, defamation in Indonesian criminal law is specifically regulated in Article 310 of the Criminal Code and Article 27 paragraph (3) of Law no. 11 of 2008 jo. UU no. 19 of 2016 concerning Information and Electronic Transactions (UU ITE). Article 310 of the Criminal Code and Article 27 paragraph (3) of the ITE Law regulates the same thing, namely defamation. The difference is, Article 310 of the Criminal Code regulates acts of defamation offline (*offline*). Meanwhile, the focus of this research is on Article 27 paragraph (3) of the ITE Law which expands the scope of its application. The main reason is the development of technology that allows online defamation actions to occur (*online*).⁷

These actions are carried out by distributing and/or transmitting and/or making accessible electronic information and/or electronic documents containing defamation, however, of particular note is the criminal act of defamation in Article 310 of the Criminal Code and Article 27 paragraph (3) UU ITE is a complaint offense (*klacht delicten*). This means that the alleged criminal act can only be prosecuted if there is a complaint from the person who was harmed. The legal consequence of this is that the criminal complaint process can be revoked or terminated within three months after the complaint is filed as regulated in Article 75 of the Criminal Code.⁸

In practice, one of the reasons for the withdrawal of complaints is the existence of "peace" which is often identified with the implementation of *restorative justice* between victims and perpetrators of criminal acts, one example that often occurs is in criminal acts of defamation. *restorative justice* approach , namely focusing on the direct participation of perpetrators, victims and the community by interpreting criminal acts. Restorative justice is also a new frame of mind that can used in responding to a criminal offense for law enforcement and legal workers in Indonesia.⁹

Restorative justice in Indonesia in criminal law in Indonesia has facilitated an alternative settlement of cases of alleged criminal acts in a peaceful manner with the application of restorative justice (*restorative justice*). Peace involves the perpetrator, the victim, the family of the perpetrator/victim, and other related parties together to seek a just solution by emphasizing the restoration to its original state and not retaliation. The application of restorative justice (*restorative justice*) was originally intended for minor crimes punishable by imprisonment for a maximum of 3 months or a fine of 10,000 times

⁷ Muhamad Ali Hasan, 2021, *Kompas.com* , *Defamation, Can It Be Solved Peacefully?*, <https://www.kompas.com/consultation/Hukum/read/2021/07/25/060000280/pencemaran-nama-baik-can-disesaikan-dalam-peace-?page=all> . / (Accessed on July 10, 2021 at 14.00 WITA)

⁸ Ibid.

⁹ Muhaimin, 2019, *Restorative Justice in the Settlement of Minor Crimes* , De Jure Legal Research Journal, Vol. 19, No. 2, p. 186

the fine. This is according to the Memorandum of Understanding between the Chief Justice of the Supreme Court, the Minister of Law and Human Rights, the Attorney General, and the National Police Chief.¹⁰

In its development, restorative justice is also applied in the Juvenile Criminal Justice System, known as Diversion. This is also confirmed in the Circular Letter of the Chief of Police No. SE/8/VII/2018. Regarding the criminal act of defamation, the National Police Chief through Circular No. SE/2/11/2021, said that in the event of complaints of alleged criminal acts of defamation, the police were asked to prioritize restorative justice. Here we can see the legal basis for implementing *Restorative Justice* :

Table. 2
Legal Basis for Implementing *Restorative Justice* in Defamation Cases and Hate Speech Cases

<p style="text-align: center;">Memorandum of Understanding between the Chief Justice of the Supreme Court, the Minister of Law and Human Rights, the Attorney General, and the National Police Chief</p> <p>No: 131/KMA/SKB/X20212 No: M.HH-07.HM.03.02/2012 No: KEP-06/E/EJP/10/2012 No: B/39/X/2012</p> <p>Regarding the Implementation of Adjusting the Limits of Minor Crimes and the Amount of Fines, Quick Examination Procedures, and the Implementation of Restorative Justice (<i>restorative justice</i>).</p>	<p style="text-align: center;">SE Head of National Police Number: SE/6/X/2015</p> <p style="text-align: center;">About Handling Hate <i>Speech</i></p>	<p style="text-align: center;">SE Head of National Police Number: SE/2/11/2021</p> <p style="text-align: center;">About Ethical Cultural Awareness to Create a Clean, Healthy, and Productive Indonesian Digital Space.</p>
<p>Article 4 Restorative Justice: Paragraph (1) states that: The settlement of minor crimes cases through Restorative Justice</p>	<p>One of the main points is to take preventive actions, such as bringing together parties</p>	<p>The National Police Chief asked the ranks below him, namely: on the seventh</p>

¹⁰ Muhammad Ali Hasan, Op.cit.

<p>can be carried out provided that peace has been carried out between the perpetrators, victims, families of perpetrators/victims, and related community leaders who are litigating with or without compensation.</p>	<p>suspected of committing hate speech with victims of hate speech and finding a peaceful solution between the warring parties.</p>	<p>point , investigators have the principle of criminal law being the last resort in law enforcement (<i>ultimum remidium</i>) and prioritizing <i>restorative justice</i> in case settlement.</p> <p>In the eighth point , the parties and/or victims who will take peaceful steps to become part of the investigator's priority for <i>restorative justice</i> are carried out .</p>
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The police were asked to prioritize peace efforts in resolving cases. The mediation space must be opened as wide as possible to the alleged perpetrators of criminal acts and victims. Meanwhile, the sentencing process should be positioned as a last resort in law enforcement (*ultimum remedium*). The process of enforcing restorative justice is carried out at the investigation stage or the investigation stage, however, if it is carried out during the investigation process, the restorative justice process must be carried out before the order for the commencement of the investigation is submitted by the police investigator to the Prosecutor's Office.

There are two main principles in resolving cases with restorative justice. First, an agreement between the perpetrator and the victim to resolve the issue outside the court process. Second, the voluntary action of the perpetrator to be responsible for fulfilling the rights of the victim in the form of compensation or other forms to return the situation to its original state before the crime. Then, after the fulfillment of these principles, the victim withdraws his complaint to the police. ¹¹Referring to the description above, it can be concluded that restorative justice is an effort to settle cases of criminal defamation outside the court. Meanwhile, the punishment mechanism becomes the *ultimum remedium* . It aims

¹¹ibid.

to maintain balance in society, restore the situation as before, and restore one's dignity and worth.

2. Problem Formulation

Based on the above background, the formulation of the problem is related to the effectiveness of the implementation of *Restorative Justice* by the Police in the Crime of Defamation on Social Media.

3. Method

This paper uses the type of empirical legal research . The approach used in this research is a field approach through interviews, supported by a *statute approach* and a case approach . *The* data obtained by the author is then analyzed using a qualitative analysis approach, where after the data is collected the researcher analyzes it using a basic thinking method from a general fact and then draws a specific conclusion so that later it can be known in this study.

4. Analysis or Discussion

Implementation Of Restorative Justice By The police In the Crime Of Damage On Social Media

The rapid advancement of technology has implications for the number of social media and makes it easier for people to carry out various activities, including expressing opinions in public and socializing. Social media is often misused by expressing opinions that are uploaded to the public and lead to complaints of alleged criminal acts, especially defamation. In this regard, the following are data related to criminal acts of defamation which were handled in the jurisdiction of the Gorontalo Regional Police and resolved through the application of *Restorative Justice* :

Table. 3
Data on Cases of Criminal Defamation on Social Media Handled by the Gorontalo Police's Criminal Investigation Unit through *Restorative Justice* Year 2019-2021

No	Year	Unfinished Case Arrears	Login Report	Amount	Settlement Through <i>Restorative Justice</i>
1	2019	8	16	24	3 Case
2	2020	19	8	27	0 Case

3	2021	24	5	29	8 Case
Total Cases of Settlement Through RJ					11 Cases

Source: Ditreskrimsus Polda Gorontalo

Seeing the high number of criminal acts of defamation in the last three years (2019, 2020 and 2021) as shown in the table. 2, but it has not been matched by the *ultimum remedium efforts* carried out by the Gorontalo Regional Police. Settlement of cases through *Restorative Justice efforts* , as the data for the last three years included in the table, still shows that it has not been fully implemented related to criminal acts of defamation on social media. It is proven that in 2019 only 3 cases of RJ could be attempted out of a total of 24 cases. Meanwhile, in 2021, only 8 cases can be pursued, the resolution of which is through RJ out of a total of 29 cases. In contrast to 2019 and 2021, RJ's efforts in criminal defamation in 2020 were not carried out or in a position of 0 cases due to the Covid-19 Pandemic so that it was not possible to carry out RJ, while the number of cases entered in the Ditreskrimsus Polda Gorontalo in 2020 as many as 27 cases or a high jump from the previous year.

Regarding the low level of efforts carried out by RJ in defamation cases through social media at the Gorontalo Regional Police, it is not entirely the fault of the police. In relation to the effectiveness of the implementation of *restorative justice* by the police in criminal acts of defamation on social media, researchers have conducted interviews regarding the implementation of RJ by the police .

"Regarding defamation (ITE) cases, usually we from the police will offer mediation, but we will return everything to the litigants whether they agree or not. If an agreement is not reached at the first mediation, then we from the police will offer again to the parties whether they want to resolve it through RJ, the limit is up to 3x (three times), because maybe the momentum for the first mediation was not right because the parties were still in an unstable emotional state. . If there is no agreement between the parties in the third mediation offer process, the legal process will continue."¹²

Based on the results of the interview, it can be concluded that the effectiveness of the role of the police in the implementation of *restorative justice* in defamation cases through social media at the Gorontalo Regional Police is always pursued by the police by carrying out the following things:

¹²Results of Interviews with Mr. Dodi Mahmud, SH. Staff of the Disreskrimsus Division of the Gorontalo Police (21 September 2021 at 10.00 WITA)

1. The police, especially the Ditreskrimsus Polda Gorontalo, always offer mediation efforts or case resolution before entering the next process by applying *restorative justice* to the litigants. Mediation is always offered by the police 3 times (three times of mediation) with the consideration that if the first and second mediations fail due to the emotional factors of the parties.
2. In the mediation effort offered by the police to the parties, if there is no clear point (agreement), then the police will proceed to the next stage of the legal process (investigation).

Furthermore, according to Dodi Mahmud, the role of the police in the implementation of *restorative justice* in defamation cases through social media at the Gorontalo Regional Police can be measured on the indicators of the implementation of RJ to the mutual agreement between the parties including:¹³

1. *Restorative Justice* is offered by the police to both parties (the reporter and the reported party);
2. There are statements from both parties which include, among others:
 - a) Statement from the reported party that he will not repeat his actions;
 - b) There is a statement from the complainant not to continue the next legal process
3. There is an agreement for compensation as a restoration of good name to the public or the community. There is a revocation of the report from the complainant to the police;
4. The implementation of RJ must be witnessed by the parties, the police, as well as traditional leaders and community leaders who are considered important in the process of resolving defamation cases on social media.

According to Dodi Mahmud, the police will carry out *Restorative Justice* but are limited by certain conditions, especially in a case that occurs, namely:¹⁴

1. The criminal act or case that RJ can do in this case is ordinary defamation.
2. The perpetrator (reported) must apologize to the victim (the reporter) verbally and in writing.
3. The victim (the reporting party) accepts the apology and is willing to make peace by mutual agreement without any intervention from other parties.

The first point is that under certain conditions the criminal act or case that RJ can do

¹³Results of Interviews with Mr. Dodi Mahmud, SH. Staff of the Disreskrimsus Division of the Gorontalo Police (21 September 2021 at 10.00 WITA)

¹⁴Results of Interviews with Mr. Dodi Mahmud, SH. Staff of the Disreskrimsus Division of the Gorontalo Police (21 September 2021 at 10.00 WITA)

in this case is ordinary defamation as intended in the results of the interview with Dodi Mahmud referring to the legal basis for the implementation of *restorative justice* in defamation cases based on the Memorandum of Understanding between Chief Justice of the Supreme Court (No: 131/KMA/SKB/X20212), Minister of Law and Human Rights (No: M.HH-07.HM.03.02/2012) Attorney General (No: KEP-06/E/EJP/10/2012) and the National Police Chief (No: B/39/X/2012) regarding the Implementation of Adjustment on the Limits of Minor Crimes and the Amount of Fines, Quick Examination Procedures, and the Implementation of *Restorative Justice* . Article 4 Restorative Justice: Paragraph (1) states that the settlement of Minor Crime cases through Restorative Justice can be carried out provided that peace has been carried out between the perpetrator, the victim, the perpetrator's/victim's family, and the relevant community leaders in the litigation with or without compensation.¹⁵

Legally, defamation in Indonesian criminal law is specifically regulated in Article 310 of the Criminal Code and Article 27 paragraph (3) of Law no. 11 of 2008 jo. UU no. 19 of 2016 concerning Information and Electronic Transactions (UU ITE). Article 310 of the Criminal Code and Article 27 paragraph (3) of the ITE Law regulates the same thing, namely defamation. The difference is, Article 310 of the Criminal Code regulates acts of defamation offline (*offline*). Meanwhile, the focus of this research is on Article 27 paragraph (3) of the ITE Law which expands the scope of its application. Regarding the criminal act of defamation, the National Police Chief through Circular No. SE/2/11/2021, said that in the event of complaints of alleged criminal acts of defamation, the police were asked to prioritize restorative justice. In accordance with developments, the Minister of Communication and Information of the Republic of Indonesia, National Police Chief General Pol Listyo Sigit Prabowo and Attorney General ST Burhanuddin officially signed a Joint Decree (SKB) concerning Guidelines for the Implementation of Certain Articles in Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE) .¹⁶

There are 8 Important Points of the SKB Guidelines for the Implementation of the ITE Law . The application of the ITE Law can be carried out without having to go through a judicial mechanism or prioritizing the completion of *restorative justice* . This

¹⁵ Memorandum of Understanding between the Chief Justice of the Supreme Court, the Minister of Law and Human Rights, the Attorney General and the National Police Chief regarding the Implementation of Adjustments to the Limitation of Minor Crimes and the Amount of Fines, Quick Examination Procedures, and the Implementation of Restorative Justice.

¹⁶ Agus Sahbani. 2021. *Eight Important Points of the SKB Guidelines for the Implementation of the ITE Law* . <https://m.hukumonline.com/berita/baca/lt60d3807cdf970/ini-8-poin-penting-skb-pedoman-implementasi-uu-ite/?page=3> (Accessed 1 November 2021 at 19.00 WITA)

implementation guideline is an attachment to the previously signed Joint Decree, covering eight important substances in the articles of the ITE Law. The following is the attachment of the SKB Guidelines for the Implementation of the ITE Law:¹⁷

1. Article 27 paragraph (1) focuses on the act of transmitting, distributing and/or making it accessible, not on the act of decency. Perpetrators intentionally allow the public to view, save, or resubmit content that violates such decency.
2. Article 27 paragraph (2), the focus of this article is on the act of transmitting, distributing, and making accessible gambling content that is prohibited or does not have a permit based on statutory regulations.
3. Article 27 paragraph (3), the focus of this article is:
 - a) In an act that is done intentionally with the intention of distributing/transmitting/making accessible information the content of which attacks someone's honor by accusing something so that it is known to the public.
 - b) It is not a criminal offense if the content is in the form of insults which are categorized as insults, ridicule, and/or inappropriate words, also if the content is in the form of judgments, opinions, evaluation results or a fact.
 - c) It is a complaint offense so it must be the victim himself who reports, and not an institution, corporation, profession or position.
 - d) It is not an offense of insult and/or defamation if the content is distributed through closed or limited group conversations.
 - e) If journalists personally upload their personal writings on social media or the internet, then the ITE Law will still apply, unless it is carried out by the Press institution, then Law Number 40 of 1999 concerning the Press will apply.
4. Article 27 paragraph (4), the focus of this article is an act committed by a person or organization or legal entity and delivered openly or privately, either in the form of coercion with the aim of unlawfully benefiting oneself or others or threatening to reveal secrets, threatening share personal data, private photos, and/or private videos.
5. Article 28 paragraph (1), the focus of this article is on the act of spreading false news in the context of electronic transactions such as online trading transactions and cannot be imposed on parties who default and/or experience *force majeure*. This is a material offense, so consumer losses as a result of fake news must be calculated and determined.

¹⁷ Joint Decree (SKB) concerning Guidelines for the Implementation of Certain Articles in Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions

6. Article 28 paragraph (2), the focus of this article is on the act of spreading information that creates feelings of hatred or hostility towards individuals/community groups based on SARA. Submission of opinions, statements of disagreement or disapproval of individuals/community groups are not prohibited acts, unless those that are disseminated can be proven.
7. Article 29, the focus of this article is on the act of sending information containing threats of violence or intimidation aimed at personally or threatening human life, not threatening to damage buildings or property and is a general offense.
8. Article 36, the focus of this article is that material losses occur to victims of individuals or legal entities, not indirect losses, not in the form of potential losses, and not non-material losses. The value of material losses refers to the Regulation of the Supreme Court Number 2 of 2012 concerning Settlement of Minor Crime Limits (Tipiring) and Amount of Fines in the Criminal Code.

Based on the data above, according to the researcher, the police, especially in the jurisdiction of the Gorontalo Regional Police, are asked to prioritize peace efforts in resolving cases. The mediation space must be opened as wide as possible to the alleged perpetrators of criminal acts and victims. Meanwhile, the sentencing process should be positioned as a last resort in law enforcement (*ultimum remedium*). The process of enforcing restorative justice is carried out at the investigation stage or the investigation stage, however, if it is carried out during the investigation process, the restorative justice process must be carried out before the order for the commencement of the investigation is submitted by the police investigator to the Prosecutor's Office.

There are two main principles in resolving cases with restorative justice:¹⁸

- (1) An agreement between the perpetrator and the victim to resolve the issue outside the court process.
- (2) The voluntary action of the perpetrator to be responsible for fulfilling the rights of the victim in the form of compensation or other forms to return the situation to its original state before the crime.
- (3) Then, after the fulfillment of these principles, the victim withdraws his complaint to the police.

The criminal justice *system* is actually intended to protect and enhance human dignity, both for victims, perpetrators and the community. Criminal justice must guarantee and realize the human rights of all citizens involved in the criminal case process. Through the criminal justice process, it is hoped that it can provide a sense of justice for all groups of

¹⁸Results of Interviews with Mr. Dodi Mahmud, SH. Staff of the Disreskrim Division of the Gorontalo Police (21 September 2021 at 10.00 WITA)

people and all levels of society, but based on field research, especially regarding cases of criminal acts of defamation on social media, *restorative justice should always prioritize efforts*.

Restorative justice is a form of new approach in the settlement of criminal cases. The form of a *restorative justice* approach with a focus on its approach to perpetrators, victims and the community in the process of resolving legal cases that occur between them. Humans are social beings who have a will or interest that is not uniform between one human and another, the higher the complexity and the increasingly fierce competition in social life tends to increase or at least have the potential to cause various problems.

According to the researcher, the implementation of the settlement of criminal cases with restorative justice between victims and perpetrators is carried out in the following ways:

- a. Organizing meetings that invite victims, perpetrators and their families who support them;
- b. Provide opportunities for all parties to tell how the crime has occurred and propose solutions or action plans;
- c. After the perpetrator and his family have listened to the opinion of the other party, give them the opportunity to propose a final solution that can be agreed upon by all parties present;
- d. Supervise the implementation of the offer/proposal, especially with regard to compensation for victims.

The concept or approach of restorative justice must be implemented in an integrated manner between the police, prosecutors, judges, correctional institutions, judicial commissions and advocates, but in cases of criminal acts of defamation on social media it should focus on the parties, the police and traditional leaders or community leaders who take an interest in it. In addition, that the implementation or implementation of the concept or approach of restorative justice must be applied structurally, substantially and culturally in an integrated manner, this is important considering that if one of these components does not apply the concept or approach of restorative justice then a restorative agreement may not be implemented.

According to Dodi Mahmud , the mechanism for resolving cases based on RJ (restorative justice) is based on consensus deliberation where the parties are asked to compromise to reach an agreement. Each individual is asked to give in and put the interests of the community above personal interests in order to maintain mutual harmony. The concept of deliberation has proven to be more effective in resolving disputes in society in the midst of many cases of criminal defamation through social media.¹⁹

¹⁹Results of Interviews with Mr. Dodi Mahmud, SH. Staff of the Disreskrim Division of the Gorontalo Police (21 September 2021 at 10.00 WITA)

A restorative justice approach *that* upholds the values of balance, harmony, harmonization, peace, tranquility, equality, brotherhood, and family is certainly in harmony and in accordance with the values contained in Pancasila, thus the restorative justice approach is essentially in accordance with the soul of the Indonesian nation that puts forward the values of kinship, community, family, mutual cooperation, tolerance, forgiveness, and puts forward an attitude that puts the common interest first. In addition to being in accordance with the values contained in Pancasila, a restorative justice approach that upholds the values of balance, harmony, harmonization, peace, tranquility, equality, brotherhood, and kinship is also in harmony with the values contained in customary law.

Based on an interview with Dodi Mahmud, that the main principle of resolving criminal acts through a restorative approach is a settlement that is not just a tool to encourage someone to compromise on the creation of an agreement, but the approach must be able to penetrate the hearts and minds of the parties involved in the settlement process. In understanding the meaning and purpose of carrying out a remedy and the sanctions applied are sanctions that are restoring and are preventive in nature.²⁰

Justice in defamation cases on social media through a restorative *justice approach*, according to the researcher, can be seen from several elements:

- 1) The purpose of justice must be interpreted as restoration of the situation and compensation for the losses suffered by the victim;
- 2) The purpose of recovery and compensation is part of a comprehensive repair process for all relationships that have been damaged, including to prevent similar crimes from happening again;
- 3) The definition of a criminal act is not only a violation of the law against the state, but is also interpreted as an act that damages the relationship between individuals and individuals, and society and individuals;
- 4) A criminal act is an act that causes harm to the victim which must be recovered;
- 5) The burden of proof and settlement of criminal acts is not solely the burden of the state, but is the burden of the individual and society;
- 6) Settlement of criminal acts must be completed in a fair and balanced manner, through a forum for discussion and constructive dialogue for the parties involved, especially victims and perpetrators who have expressed their regrets or their respective families;
- 7) The recovery process aims to resolve conflicts and prevent criminal acts that can be carried out through a series of options for meetings between families or

²⁰Results of Interviews with Mr. Dodi Mahmud, SH. Staff of the Disreskrim Division of the Gorontalo Police (21 September 2021 at 10.00 WITA)

communities and government representatives that are adapted to the complexity of the problem and other practical resolution processes.

- 8) The meeting is needed to be able to take joint decisions and ensure that the process runs safely, respects each other, and can guide the parties in dealing with critical issues. The meeting was also intended to seek solutions on how to deal with events after the onset of the crime, including ensuring the welfare or material satisfaction of the victim, reaffirming that they will not be blamed, paying attention to the emotional needs of the victim, solving any conflict between the victim and the perpetrator (both because of the crime itself or pre-existing), resolving conflicts that occur between family members or with the community, solving difficulties between the perpetrator and his family and other friends as a result of the crime, for example being ashamed to know the perpetrator, and giving an opportunity for the perpetrator to release guilt through apologies and redress;
- 9) The recovery process also includes taking action to address the reasons or causes of the crime in question, making a rehabilitation plan, an agreement between family members and the community present based on a support system for the perpetrator of the crime, to ensure that he is able to comply with the plan;
- 10) The role of the government and the police is to maintain public order, while the role of the community is to create and maintain peace.

Departing from the description of the explanation in this chapter, the effectiveness of the implementation of *restorative justice* by the police in criminal acts of defamation on social media in the Gorontalo Regional Police jurisdiction has actually been running in accordance with the expected restorative justice, although in practice it is still far in quantity when compared to the number of cases. which is entered and processed through RJ. According to researchers from the last three years (2019, 2020 and 2021) 11 cases of defamation that were resolved through RJ at the Gorontalo Regional Police were the success of the police as a mediator for resolving cases before entering the legal court process, this of course was influenced by the parties involved. litigants (the complainant and the reported party) because the police have played their role in providing mediation offers to the parties in seeking restorative justice.

A. Conclusion

effectiveness of the implementation of *restorative justice* by the police in criminal acts of defamation on social media in the jurisdiction of the Gorontalo Regional Police has actually been running in accordance with the expected restorative justice, although in its implementation the quantity is still far from being compared to the number of cases that are entered and processed through RJ. In 2019, 2020 and 2021 there were 11 cases of defamation that were resolved through RJ at the Gorontalo Regional Police and this was the success of the police as a mediator for resolving cases before entering the legal court

process, this of course was influenced by the litigants (the reporting party). and reported) because the police have played their role in providing mediation offers to the parties in seeking restorative justice.

B. Suggestion

All components involved in restorative *justice* or the restorative justice approach must implement it in an integrated manner between the police, litigants and community leaders and traditional leaders in cases of criminal acts of defamation on social media, this becomes important considering that if one of these components If it is not presented in RJ's approach as restorative justice, then a restorative agreement cannot be implemented.

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