

The Effectiveness of The Settlement of Alleged Criminal Offences of Insult or Defamation Through Electronic Media with Restorative *Justice* at The Investigation Stage

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ABSTRACT

Restorative justice aims for legal settlement to create an agreement on the settlement of criminal cases. This research study aims to find the effectiveness of the settlement of alleged criminal offences of insult or defamation through electronic media at the investigation stage. This type of research is descriptive qualitative research using a combination approach between *doctrinal* (normative) and non-doctrinal (empirical) research. The results showed that the settlement of alleged criminal offences of insult or defamation through electronic media with *restorative justice* at the investigation stage has been effective. This is measured by the level of knowledge of Law Enforcement Officials and the public that has been sufficient, and the dominant respondent considers that the justice of the victim can be fulfilled through *restorative justice*. However, there is still a need for regulations at the level of laws that can serve as guidelines for law enforcement officials in handling criminal cases.

Keywords:

Restorative Justice, Crime, Defamation, Investigation.

INTRODUCTION

Essentially, Allah SWT has bestowed upon humans the precious gifts of reason and conscience to confront and resolve all challenges encountered. These challenges encompass both personal matters, involving interactions between individuals, and societal matters, pertaining to the relationship between individuals and the community at large. In order to avoid or prevent clashes or disputes that can have implications for *social order*, a civilised solution is chosen either through a *criminal justice* resolution mechanism or a settlement with *restorative justice*. (FJP Law Office, 2021).

The implementation of *restorative justice* in the Indonesian criminal justice system has not been fully optimized, despite its recognition as a principle of law enforcement in case settlement. The Supreme Court has enacted policies to incorporate *restorative justice* as an instrument of recovery. This alternative approach to resolving criminal cases emphasizes transforming punishment into a dialogue and mediation process that includes the perpetrator, victim, and their respective families, as well as other relevant parties (Willa Wahyuni, 2022).

When legal problems arise, especially those related to criminal law, then of course the first step is to identify or study the problem based on reports or complaints to law enforcement officials, in this case the police as investigators or investigators for further legal intervention as stipulated in the legislation.

In line with this, the legal problem that often arises is the careless use of social media which leads to violations of the law, such as slander or defamation through electronic media. With advances in technology that allow almost all activities

to be carried out through the media, methods of committing criminal acts of defamation have become more varied. These methods include spreading content that defames someone through various media platforms. (Asrianto Zainal, 2016).

The rapid changes in society, particularly in relation to Information Technology, media, and communication, are bound to influence global human behavior and civilization. The advancement of information and communication technology has blurred international boundaries and brought about significant social, economic, and cultural transformations. Information technology is now seen as a tool with both positive and negative consequences. While it can enhance human well-being, progress, and civilization, it also poses challenges that need to be addressed. But on the other hand, if not managed wisely, it can be used as a means of violating the law by utilising or using ITE facilities.

In this regard, the handling of alleged criminal offences of insult or defamation through electronic media has become a discourse by legal experts as well as ordinary people. Where on the one hand there are those who think that it will be effective if resolved by *criminal justice*, but on the other hand there are also those who think that *restorative justice* is much better or more effective.

The settlement of alleged criminal offences of insult or defamation through electronic media, especially at the investigation stage, through *restorative justice* as stipulated in National Police Chief Regulation Number 8 of 2021 concerning Handling Criminal Offences Based on Restorative Justice can be carried out as long as it fulfils general and special conditions.

Meanwhile, it has become a demand that a good law is a law that is always in tune with and accommodates the legal needs of society, not only from the aspect of legal certainty which is the orientation or purpose *an sich* but also the extent to which it can provide benefits and fulfil a sense of justice that lives in society. Police institutions or institutions, one of whose main tasks is to enforce the law as stipulated in Article 30 paragraph (3) of the 1945 Constitution and Article 13 of Law Number 2 of 2022 concerning the Indonesian National Police, need to respond and formulate new concepts in the criminal law enforcement system, especially the process of investigating and investigating criminal offences that are in line with the values of justice in society while providing legal certainty, especially certainty of process.

Indonesian law enforcement systems and practices have a tendency to follow the evolution of public justice, particularly when it comes to the restorative justice principle, which views justice as a type of balance in human life and views criminal behavior as behavior that upsets this balance. Therefore, the model of case settlement is an attempt to redress the balance by placing responsibility on the offender, who must consciously acknowledge guilt, offer an apology, and repair any losses or damages to the victim to their pre-crime state or a state that closely resembles it. This can satisfy the victim's sense of justice.

The idea of restorative justice cannot be understood as a way to end a criminal case amicably; rather, it refers to the process of satisfying the sense of justice for all parties involved in a criminal case by working with victims, offenders, and the local community, as well as using investigators and investigators as mediators. The case is settled through a peace agreement, and the victim's right to prosecute must be revoked by a judge on behalf of the public prosecutor.

The handling of criminal cases by the criminal justice system does not always provide the best results for law enforcement by the police. This can be seen from the

emergence of a number of problems in the criminal justice system in Indonesia, including: overcrowding in correctional institutions, increasing case arrears, an imbalance in the number of law enforcement officers compared to the volume of cases, insufficient case fees, and so on. This situation or condition certainly has an impact on a shift in society's legal culture, especially the Indonesian public's perception of the criminal justice system which is starting to lean towards the use of restorative justice as a proportional and effective way of resolving criminal cases. (Circular Letter of the National Police Chief Number 8 of 2018).

This is what causes the rise of insults through the media to be increasingly unstoppable, even media insults have reached the criminal realm of State security, the dignity of the President and Vice President, friendly countries, heads of friendly countries and their representatives, public order, and decency. Therefore, the need for a study on the Effectiveness of Settlement of Alleged Criminal Offences of Insult or Defamation Through Electronic Media Based on Restorative *Justice* at the Investigation Stage is relevant and urgent to be studied.

METHOD

In terms of its nature, this research is descriptive in nature while still referring to the applicable laws and regulations to identify legal issues that arise in relation to the effectiveness of resolving alleged criminal offences of insult or defamation through electronic media with restorative *justice* at the investigation stage. Meanwhile, when viewed from the angle of application, this research is a combination of *doctrinal* (normative) and non-doctrinal (empirical) research, where on the one hand examining the relevant laws and regulations. While on the other hand examining the process of working law or the application of laws and regulations in society.

RESULTS AND DISCUSSION

Based on the research that has been conducted related to the level of knowledge of Law Enforcement Officials and the public about insult or defamation from the perspective of the Criminal Code (KUHP), the following results are obtained:



Diagram 1. APH and community knowledge of Defamation or Defamation from the Perspective of the Criminal Code

The research results from the diagram above show that the respondents' responses regarding the level of knowledge about insult or defamation from the perspective of the Criminal Code (KUHP) stated that they were very aware of 13.3% of respondents; those who knew 80.0% of respondents; and those who did not know 6.7% of respondents.

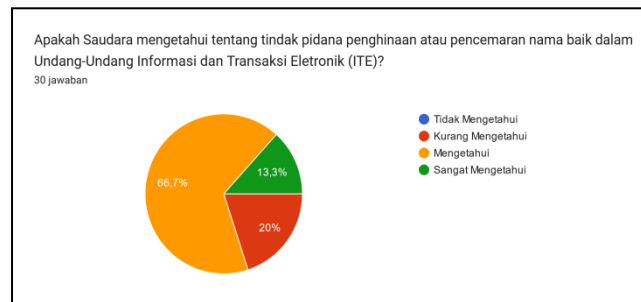


Diagram 2. APH and community knowledge of Defamation or Defamation from the Perspective of the ITE Law

The research results from the diagram above show that respondents' responses regarding the level of knowledge of law enforcement officers and the public about defamation or defamation from the perspective of the Electronic Information and Transaction Law (ITE) stated that they were very knowledgeable as many as 13.3% of respondents; those who knew were 66.7% of respondents; and those who did not know were 20.0% of respondents.



Diagram 3. APH and community knowledge of *Restorative Justice*

The research results from the diagram above show that respondents' responses regarding the level of knowledge of law enforcement officials and the public regarding *restorative justice* were 13.3% of respondents; 66.7% of respondents knew; and 20.0% of respondents did not know.



Diagram 4. APH and community knowledge of Police Regulation Number 8 of 2021

The research results from the diagram above show that the respondents' responses regarding the level of knowledge about Police Regulation Number 8 of 2021 concerning Handling Crimes Based on Restorative Justice stated that they

were very aware of 10.0% of respondents; those who knew 66.7% of respondents; those who did not know 16.7% of respondents; and did not know 6.6 respondents



Diagram 5. APH and community knowledge of Restorative Justice requirements
(*Restorative Justice*)

The diagram above shows that respondents responses regarding the requirements for the implementation of restorative *justice* stated that they were very aware of 13.3% of respondents; who knew 56.7% of respondents; who were less aware of 26.7% of respondents; and did not know 3.9% of respondents.

In accordance with the research results described in each item above regarding the level of knowledge of law enforcement officials and the public regarding the criminal offence of insult or defamation from the perspective of both the Criminal Code and the Electronic Information and Transaction Law (ITE), the understanding of Restorative *Justice*, Police Regulation Number 8 of 2021 and the requirements of Restorative *Justice*, it shows that the dominant respondents stated that they knew.

When referring to the theory or expert view which states that the level of knowledge of law enforcement officials and the community from an individual perspective is one of the important elements that influence the achievement of legal effectiveness. This is in line with the statement that states that to assess the effectiveness of law or the operation of laws and regulations that apply in a community or which are the target targets of the application of the law, it is necessary to study it from two perspectives, namely:

- a. An organisational perspective, which views legislation as an institution in terms of its characteristics;
- b. Individual perspective, or obedience that focuses more on individuals or individuals, where their associations are regulated by legislation. (Achmad Ali, 2009)

Likewise, in the author's view, for the realisation of legal effectiveness, the first and main step that needs to be a point of attention is the extent to which law enforcement officials as implementers and *role models* as well as the community as *stakeholders* can understand properly related laws or laws that will be applied or that exist, so as not to cause confusion and irregularities in their implementation.

Efforts to improve or increase the knowledge or understanding of law enforcement officials and the public about a law can be pursued through the implementation of education, training, seminars, counselling and various forms of legal education that can be carried out independently or in collaboration by involving related parties either periodically or according to the needs and availability of resources owned.

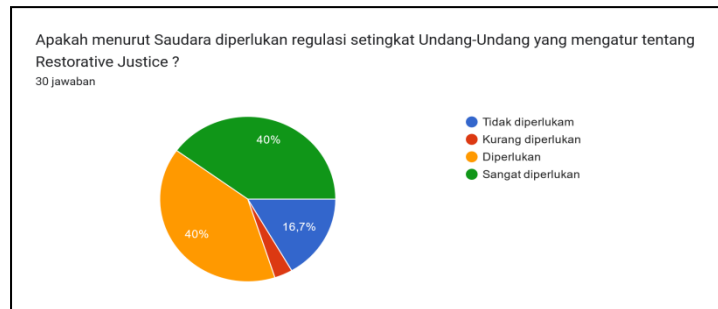


Diagram 6. The Need for Law-Level Regulation on Restorative *Justice*

The diagram above shows that the responses of respondents regarding the need for regulations at the level of laws governing *Restorative Justice* were 40.0% of respondents who stated that it was very necessary; 40.0% of respondents stated that it was necessary; 3.3% stated that it was less necessary; and 16.7% stated that it was not necessary.



Diagram 7. APH Perception Equation

The diagram above shows that respondents' responses regarding the similarity of perceptions of APH (Investigators, Prosecutors & Judges) regarding the settlement of criminal cases with *restorative justice*, which stated that there were very similarities around 16.7 respondents; there were similar perceptions as much as 56.7%; and those who considered that there was less perception were 26.7%.

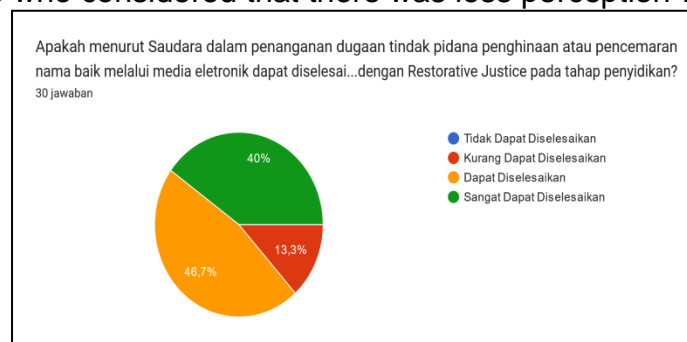


Diagram 8. Defamation or libel through electronic media can be Solved with RJ

The diagram above shows respondents' responses that the alleged criminal offence of insult or defamation through electronic media can be resolved with RJ at the investigation stage, 40.0% of respondents stated that it could be resolved; 46.7%

of respondents stated that it could be resolved; and 13.3% of respondents stated that it could not be resolved.



Diagram 9. Restorative *Justice* can Provide Justice to the Victim

The diagram above shows that respondents' responses regarding the settlement of alleged criminal offences of insult or defamation through electronic media can be resolved with *restorative justice* at the investigation stage can provide justice to the victim. Where respondents who stated that they could provide justice to the victim as much as 20%; could provide justice as much as 66.7%; and did not provide justice to the victim as much as 13.3%.



Diagram 10. Restorative *Justice* at the Investigation Stage has been effective

The diagram above shows respondent responses regarding the handling of alleged criminal offences of insult or defamation through electronic media with *restorative justice* at the investigation stage so far has been effective. Where the number of respondents who stated that it was very effective was 23.3%; those who stated that it was effective were 63.3%; and those who stated that it was less effective were 13.3%.

In accordance with the research results described in each item above regarding the effectiveness of the settlement of alleged criminal offences of insult or defamation through electronic media with Restorative *Justice* at the investigation stage, it shows that the dominant respondent stated that it was effective or fulfilled the victim's sense of justice.

This is in line with the statement asserted by Allot that legal effectiveness is how the law can realise its purpose or in other words how the law can fulfil its purpose. (Diana Tantri Cahyaningsih, 2020). The same thing is also explained by Achmad Ali that the effectiveness of certain legal rules will differ from the factors that affect the effectiveness of each legal rule. (Achmad Ali, 2009).

Meanwhile, in the author's view, the effectiveness of a law or regulation is determined by the healthy operation of the legal system without any significant legal pathology that can interfere with or hinder the operation of the law to achieve or realise its objectives.

CONCLUSION

The settlement of alleged criminal offences of insult or defamation through electronic media with restorative *justice* at the investigation stage has been effective. This can be measured from the level of understanding or knowledge of law enforcement officials and the public that has been sufficient and the dominant respondent considers that the settlement of criminal defamation or defamation through electronic media with restorative *justice* at the investigation stage can fulfil justice for the victim and at the same time become an alternative or good choice in resolving a criminal case. There is an expectation that in order to resolve allegations of criminal defamation or defamation through electronic media with *restorative justice*, regulations at the level of laws are needed that can guide law enforcement officials (Investigators, Prosecutors, and Judges), which so far still use regulations made by each law enforcement agency or institution, for example the Regulation of the Indonesian National Police Number 8 of 2021 concerning Handling Crimes Based on Restorative Justice which regulates *Restorative Justice within* the Police.

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