

# EFFECTIVENESS OF THE IMPLEMENTATION OF RESTORATIVE JUSTICE TOWARDS CRIMINAL ACTS OF ASSAULT IN THE CRIMINAL RESEARCH UNIT OF THE DENPASAR CITY POLICE RESORT

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## Abstract

The mechanisms and procedures for implementing restorative justice regarding assault cases at the Criminal Investigation Unit of the Denpasar City Police are carried out in accordance with Chapter IV (Articles 79 through 88) of Law No. 20 of 2025 concerning the Criminal Procedure Code. The application of restorative justice in resolving assault cases has proven quite effective and serves as a priority for case resolution, in line with the guidelines set forth in Indonesian National Police Regulation No. 8 of 2021. This approach has successfully accelerated case resolution, restored the relationship between the victim and the perpetrator, and reduced the burden on the criminal justice system, although its implementation relies heavily on the parties reaching a peace agreement. Key indicators of success (effectiveness) include: (a) rapid case resolution, (b) restoration of the victim's rights, and (c) system efficiency.

**Keywords:** Restorative Justice, Police, and Assault Crimes.

## INTRODUCTION

Restorative justice in its implementation requires a concept that has legitimacy in its application. As a manifestation of the actualization of this philosophy, the concept must be outlined in legislation. If someone commits a crime, it must be followed by a threat of punishment whose material is regulated in the Criminal Code. However, law enforcement officers at the Denpasar Police did not implement the rules according to the formulation in Article 351 of the Old Criminal Code in conjunction with 466 of the New Criminal Code. The Denpasar Police resolved the case amicably using a restorative justice approach regulated in Article 12 of Regulation of the Chief of Police No. 6 of 2019 concerning Criminal Investigation and Regulation of the Republic of Indonesia National Police No. 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice. After conducting the initial investigation process, the police decided to take the restorative justice route by bringing the perpetrator and victim together in mediation facilitated by investigators, and witnessed by community leaders and the families of each party. Through this process, the perpetrator

apologizes directly and promises not to repeat their actions, while the victim accepts the apology in good faith. This type of resolution not only restores social relations between the perpetrator and victim but also reflects the primary goals of restorative justice: restoration, peace, and justice oriented toward humanity.

### **Problem Formulation**

By looking at the background above, the following problem formulations can be drawn: first, the mechanism and procedure for implementing restorative justice in accordance with Law No. 20 of 2025 concerning the Criminal Procedure Code for criminal acts of assault in the Denpasar Police Criminal Investigation Unit, second, the effectiveness of implementing restorative justice in resolving cases of criminal acts of assault in the Denpasar Police Criminal Investigation Unit.

### **Purpose of Writing**

This study aims to determine the policy for handling criminal acts through the Restorative Justice approach and the effectiveness of the application of restorative justice in resolving cases of criminal acts of assault in the Denpasar Police Criminal Investigation Unit.

## **METHOD**

The research method used in this study is a normative research method that utilizes various types of primary legal materials in the form of legislation and secondary legal materials in the form of literature related to restorative justice as sources of research material. Johnny Ibrahim believes that normative legal research is a form of scientific research aimed at finding the truth based on the logic of legal science viewed from a normative perspective, or one that takes the form of an effort to discover law adapted to a particular case. This research is also supported by empirical research.

## **RESULTS AND DISCUSSION**

### **Implementation of Restorative Justice in Mob Crimes at the Bali Regional Police General Criminal Investigation Directorate**

Roscoe Pound stated that: Discretion is the authority conferred by law to act in certain conditions or situations in accordance with an official's or an official agency's own considered judgment and conscience. It is an idea of morals, belonging to a distinct zone between law and morals.

Under Indonesian Positive Law, criminal cases cannot be resolved outside the courts, but in certain cases, it is possible. In practice, criminal law enforcement in Indonesia, despite the lack of a formal legal basis, often resolves cases outside the courts through the discretion of law enforcement officials, peace mechanisms, customary institutions, and so on. The

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increasing use of penal mediation as an alternative to restitution in criminal proceedings demonstrates that the differences between criminal and civil law are not significant and that these differences are becoming dysfunctional.

The current criminal law largely still uses the French Criminal Code, better known as the Code Penal. Over time, criminal law has drawn criticism for being too rigid in its application and sometimes failing to address the aspects of justice within society.

According to Muladi, Restorative Justice aims to empower victims, encouraging perpetrators to prioritize recovery. Restorative justice prioritizes meeting the victim's material, emotional, and social needs.

Restorative justice theory views crime as a violation of humanity, and therefore, its resolution must be humane. Restorative justice is a problem-solving approach to crime that involves the parties themselves and the community at large in active engagement with legal entities. Several universally applicable principles inherent in the restorative justice approach to resolving criminal offenses include: the principle of due process, equal protection, consideration of victims' rights, proportionality, the presumption of innocence, and the right to legal counsel or consultation.

The Regulation of Restorative Justice Mechanisms, Part One General Articles 79 to 82, and Part Two Restorative Justice Mechanisms at the Investigation and Prosecution Stage Articles 83, Article 84 of the Republic of Indonesia Law No. 20 of 2025 concerning the Criminal Procedure Code, found several key findings regarding restorative justice, especially criminal law, which is considered to still have different views where in the application of the concept of restorative justice, the effectiveness and relevance in resolving minor crimes is felt to be not in favor of victims, where the concept of implementation by law enforcement officers can result in protection for victims being vulnerable in the application of restorative justice in the development of positive law in Indonesia. One of the major problems that drowned in the euphoria of the ratification of the New Criminal Procedure Code that must be of concern to us all is the regulation of Restorative Justice (RJ) at the investigation stage. At this stage, which is still gray, cases can be "resolved", even before law enforcement officers can determine whether a crime has actually occurred or not. During the investigation phase of a criminal case, law enforcement officers create opportunities for compromise and compromise, often not based on voluntary agreements. This results in the victim or complainant's lack of a clear legal standing and the unfulfilled rights and information regarding the legal truth of their case. This is stipulated in Law of the Republic of Indonesia No. 20 of 2025 concerning the Criminal Procedure Code.

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During the investigation phase, law enforcement officers should still be clarifying and gathering evidence to determine whether a criminal act actually occurred, which leaves the victim or complainant vulnerable. Thus opening the door to opportunities for law enforcement officers to place restorative justice as a means of entry into resolving criminal cases on the basis of a peace agreement that has not been verified with correct facts and clear legal standing and there is room for abuse of authority due to the existence of supervisory control at this stage and it seems to be regulated in the authority of investigators to resolve cases in accordance with the Republic of Indonesia Law No. 20 of 2025 concerning the Criminal Procedure Code Article 83 Part Two. So at this stage of investigation is very vulnerable because according to the rules the termination of the case at this stage depends on the investigator is very different from the investigation stage where the supervision of law enforcement officers investigators get clear supervision and every completeness of the case files made by investigators is tested and assessed as well as by the prosecutor at the stage before prosecution and gets control supervision from within the law enforcement apparatus institution in this case the investigator on the quality and legality of the investigator on the criminal case being handled and gets internal supervision by the investigator supervisor (Wassidik) and Propam Polri, and at the investigation stage there is a peace agreement through the restorative justice mechanism, then the investigator makes a letter of termination of the investigation by the investigator and notifies the head of the public prosecutor's office and requests a determination from the head of the district court, in accordance with the Law of the Republic of Indonesia No. 20 of 2025 concerning the Criminal Procedure Code.

According to AKP Nengah Seven Sampeyana, S.H., M.H., Head of Unit 5 of the Denpasar Police Criminal Investigation Unit, the investigation process for assault crimes is carried out based on a report or complaint from a member of the public regarding the occurrence of a crime in the form of assault. The investigator then registers the police report and, after being accompanied by a task order from the superior, the investigator instructed to investigate the report or complaint regarding assault conducts an investigation. This identification is carried out to determine whether the assault occurred. The initial steps include visiting the scene, taking fingerprints and other identification, and gathering information and evidence. After gathering evidence and witnesses, the investigator can arrest the suspected perpetrator and prosecute the perpetrator accordingly.

The Criminal Code stipulates that individuals who commit assault are usually subject to criminal sanctions. However, criminal penalties are considered ineffective in law enforcement. In criminal law enforcement, merely defining a criminal act in law is not

sufficient. Law enforcement officials, as the implementing agencies, play a crucial role. The Indonesian National Police, as the gateway for criminal cases, is the institution authorized to investigate and prosecute criminal acts.

To address this, police investigators use their authority to resolve criminal cases outside the Indonesian criminal justice system. This authority is discretionary, allowing police officers to make decisions or choose actions to resolve legal issues, whether violations or crimes, under their jurisdiction. One form of discretion within police authority is the termination of an investigation, which is conducted by the police based on considerations and beliefs, prioritizing morality over the applicable legal framework.

In its implementation, the restorative justice approach to criminal assault cases at the Denpasar Police Department involves a process that must be implemented before the investigation is terminated. This research is the result of an interview with First Inspector Bagus Wiguna Prabowo, S.H., M.H., Head of Unit 5 of the Denpasar Police Criminal Investigation Unit. It is important to emphasize that the investigation and inquiry stages continue to proceed in accordance with applicable procedures. Based on the research results, the investigators have carried out the resolution of the assault case using the principle of restorative justice in accordance with what is formulated in Articles 5 and 6 of the Republic of Indonesia National Police Regulation Number 8 of 2021 concerning the requirements for resolving cases outside the courts.

The process of implementing restorative justice for assault cases has been ongoing since the case was filed with the Denpasar Police. An interview with AKP Nengah Seven Sampeyana, S.H., M.H., Head of Unit 5 of the Denpasar Police Criminal Investigation Unit, revealed that restorative justice can be implemented during the investigation and inquiry stages. The investigation and inquiry process in criminal cases is still carried out according to procedure. The first stage in the peace process is carried out through mediation by both parties. This allows the victim to express their discomfort and complaints resulting from the assault by the perpetrator. By expressing the victim's complaints, the perpetrator will have the opportunity to atone for their mistakes. In assault cases, compensation is sometimes provided. Usually, it is only compensation for medical expenses, which is not up to millions of rupiah. The amount of compensation is given according to the victim's wishes. Because this is a case of assault, the amount of compensation is not excessive. In essence, compensation in the form of money for treatment is not mandatory, depending on the agreement. In addition, many assault cases result in peace with an apology to the victim for the assault. However, some people refuse to reconcile, despite apologies and promises of compensation, as the victim is already deeply hurt

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by the perpetrator's actions. Mediation requires the presence of witnesses, who may be represented by village traditional leaders or community leaders. The victim and perpetrator are permitted to mediate at the village office or the Denpasar Police Department.

If the perpetrator and victim are afraid to mediate at the village office, mediation can be conducted at the Denpasar Police Department. The Police Department allows both parties to mediate, and the Regional Police have provided mediation facilities if the victim and perpetrator wish to do so. After reaching a settlement, documentary evidence is required. The settlement letter is issued by the village office as proof that both parties have reached a settlement.

The next step is for the perpetrator or victim to submit a written request to the Chief of the Denpasar City Police Department. The request letter is prepared by the perpetrator, the victim, the perpetrator's family, and the victim's family. The request letter should be accompanied by documents such as a statement of settlement between the perpetrator and victim, and proof that the victim's rights have been restored. The peace settlement referred to refers to a prior peace agreement reached by the perpetrator and victim through mediation, attended by the victim's and perpetrator's families, as well as witnesses.

After the documents are deemed complete, the investigator requests clarification from the parties, which is then documented in a report. Once the document review and clarification are complete, the investigator will request approval for a case conference. A case conference is an activity where the investigator explains the investigation process to participants, followed by a group discussion to solicit feedback, input, and corrections to generate recommendations for determining the next steps in the investigation. The case conference is attended by the investigator, the Head of Unit, the Head of Investigation, the Investigation Supervisor, and the Director. Also present are the victim and perpetrator, the victim's and perpetrator's families, and representatives of community leaders, religious leaders, traditional leaders, and other stakeholders.

Investigators must identify whether the case of criminal assault meets the requirements stipulated in Articles 5 and 6. Investigators must also identify the severity of the injuries suffered by the victim as a result of the assault by the perpetrator. If, according to the investigator, the case of criminal assault does not meet the requirements, the criminal justice process will continue as it should. Criticism, suggestions, and responses from participants in the case conference are also welcome to assist investigators in considering the continuation of the case. However, if, according to the investigator, the case of assault meets the requirements stipulated in Articles 5 and 6 of the Republic of Indonesia National Police Regulation Number

8 of 2021, the investigation/prosecution can be terminated. After the case conference, investigators prepare a report on the results of the special case conference, then issue a letter of order to terminate the investigation/prosecution and a letter of determination to terminate the investigation/prosecution for legal reasons. The next step is to record the termination of the investigation/prosecution in the Restorative Justice register and count it as a case settlement. For cases for which a notification letter of commencement of investigation (SPDP) has been sent to the public prosecutor, a notification letter of termination of investigation is sent to be attached. The final step is to enter the data into the electronic investigation/investigation management system.

### **The Effectiveness of the Implementation of Restorative Justice in Resolving Criminal Cases of Assault in the Criminal Investigation Unit of the Denpasar Police**

Regarding the effectiveness of restorative justice implementation for police assault crimes, Anthony Allot's theory states that the effectiveness of a law can be measured through three main dimensions: preventive, curative, and facilitative. When linked to the victim-oriented principle, the theory of legal effectiveness, as previously explained, provides a strong basis for assessing the extent to which restorative justice implementation at the Denpasar Police Department has successfully placed victims at the center of the law enforcement process. This principle emphasizes that the needs, rights, and interests of victims must be a top priority at every stage of case resolution.

Based on data from cases resolved restoratively at the Denpasar Police Department, the resolution process focuses on redressing the victim's losses through dialogue, apologies, and peace agreements between the parties involved. Some forms of agreement include reimbursement of hospital expenses, counseling, and other costs agreed upon by both parties. The application of restorative justice in the eight cases at the Denpasar Police Department is closely aligned with the victim-oriented principle. This principle emphasizes that the primary goal of law enforcement is not merely to punish the perpetrator, but rather to remedy the victim's losses and suffering. In all cases resolved restoratively at the Denpasar Police Station, as referenced in the data above, the reconciliation process between the perpetrator and victim proceeded as intended, with both parties listening to each other and the victim's rights being fulfilled, thus fulfilling the goals of restorative justice and victim-oriented behavior. In practice, at the Denpasar Police Station, victims are given space to express their feelings, demand compensation, or receive a direct apology from the perpetrator. Furthermore, psychological support is provided for victims through an assessment of their readiness prior to mediation.

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This demonstrates the Denpasar Police's commitment to handling and implementing restorative justice practices, maintaining a balance of justice for all parties.

According to AKP Nengah Seven Sampeyana, S.H., M.H., Head of Unit 5 of the Denpasar Police Criminal Investigation Unit, to implement restorative justice for assault cases at the Denpasar Police Station, investigators must ensure that formal and material requirements are met according to National Police regulations, including: a. Not a serious assault crime (Article 354 or 355 of the Criminal Code). b. A peace agreement between the victim and the perpetrator is reached without coercion. c. The perpetrator is not a recidivist or repeat offender. d. The victim's rights or compensation have been fully restored by the perpetrator.

Furthermore, the victim-oriented principle is reflected in the fulfillment of the victim's rights as stipulated in the formal requirements for restorative justice. Every case resolution at the Denpasar Police Station follows a peace agreement accompanied by the perpetrator's fulfillment of responsibilities. This demonstrates that the victim is not positioned as a passive party, as is typical in the retributive justice system, but rather as an active party determining the direction of the case's resolution. Thus, restorative justice provides a more humane and substantive form of justice because it emphasizes victim satisfaction and the restoration of social relationships, rather than solely on punishment.

The police, specifically the Denpasar Police, act as facilitators, ensuring the peace process is conducted fairly, transparently, and without pressure. This approach not only resolves cases but also strengthens social relations and a sense of justice at the community level, especially for victims. Therefore, the implementation of restorative justice at the Denpasar Police can be considered effective because it successfully implements the victim-oriented principle, namely by restoring victims' rights, improving perpetrators' behavior, and maintaining social harmony as the ultimate goal of law enforcement.

According to AKP Nengah Seven Sampeyana, S.H., M.H., Head of Unit 5 of the Denpasar Police Criminal Investigation Unit, and based on research, the application of restorative justice in resolving assault crimes at the Denpasar Police Criminal Investigation Unit has been quite effective and is a priority for case resolution, referring to the guidelines of National Police Regulation No. 8 of 2021. This approach has succeeded in accelerating case resolution, restoring victim-perpetrator relationships, and reducing the burden on the criminal justice system, although its implementation is highly dependent on a peace agreement between the parties. Indicators of Success (Effectiveness) are: 1. Quick Resolution (Restorative Justice). Based on Police Regulation No. 8 of 2021, criminal acts of assault (especially minor assault or assault that does not result in serious injury) can be resolved outside the courts by prioritizing

the restoration of the victim's rights. 2. Restoration of Victims' Rights. Perpetrators are required to compensate for losses (medical costs) and apologize. Victims are also more involved in the process of determining compensation rather than solely focusing on imprisonment. 3. System Efficiency. Handling through the Denpasar Police Criminal Investigation Unit reduces the duration of the investigation, which is usually long, thereby saving time, energy, and state funds.

## **CONCLUSION**

The mechanism and procedures for implementing restorative justice in accordance with Law No. 20 of 2025 concerning the Criminal Procedure Code for criminal acts of assault in the Denpasar City Police Criminal Investigation Unit for criminal acts of assault are implemented based on Chapter IV Article 79 to Article 88 of Law No. 20 of 2025 concerning the Criminal Procedure Code. The main focus is to restore the victim's losses and improve relationships, not just to impose punishment. The process of resolving cases through restorative justice in the Denpasar City Police Criminal Investigation Unit must meet formal and material requirements, with the following procedures: (a) Application and Initial Assessment, (b) Mediation (Deliberation), (c) Material and Formal Requirements, (d) Final Case Title, and (e) Termination of Investigation. The application of restorative justice in resolving criminal acts of assault in the Denpasar City Police Criminal Investigation Unit has been running quite effectively and has become one of the priorities for case resolution, referring to the guidelines of Police Regulation No. 8 of 2021. This approach has been successful in accelerating case resolution, restoring victim-perpetrator relationships, and reducing the burden on criminal justice, although its implementation is highly dependent on amicable agreements between the parties. Indicators of Success (Effectiveness), namely (a) Rapid Resolution, (b) Restoration of Victims' Rights, (c) System Efficiency.

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