

The Role of Polmas in The Settlement of Mindful Criminal Actions Using A Restorative Justice Approach

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Abstract. His study entitled the role of the Community Police in solving minor crimes using the Restorative Justice approach. Community Policing as protectors, protectors and public servants based on Police Regulation No. 1 of 2021 is urgently needed in dealing with minor crimes. The issues examined are the job of Local area Policing in settling minor violations utilizing a helpful equity approach and the impediments looked by Polmas in handling minor wrongdoings with a supportive equity approach. The motivation behind this study is to learn about the methodology of how the job of Polmas in addressing minor violations utilizing the Supportive Equity approach. The method used is the juridical-empirical method, which is a method of writing laws based on legal theories, literature and applicable legislation. Based on Police Regulation Number 8 of 2021 regarding the handling of criminal acts based on restorative justice, which essentially acts as a guideline for the implementation of restorative justice, one form of which is through mediation, the study's findings demonstrate that the Polmas act as mediators in resolving minor crimes. The public's mistrust of law enforcement, the offenders' refusal to abide by deliberate choices, and the unfamiliarity with the settlement process through mediation between law enforcement and the public are the difficulties.

Keywords: Role, Community Police, Misdemeanors, Restorative Justice

1. Introduction

According to article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, Indonesia is a state built on law. According to L.M Friedman, law in reality has three (3) legal objectives, namely legal certainty, justice and benefit, where in achieving the three objectives of law enforcement is influenced by several elements, namely, legal substance, legal structure and legal culture. The legal structure in this case is the state institution as the implementing apparatus for state activities. One of the institutions needed by the Indonesian nation is an institution that functions to deal with problems that occur in Indonesian society. Polmas encourages the establishment of a collaboration between the police and the community in dealing with a problem that occurs in the community, and jointly finding solutions to it. Unlawful acts in human life are social phenomena that will always be faced by humans, society and even the State. The facts prove that crime can only be prevented and reduced but difficult to eradicate thoroughly. One method that has been developed for handling crime prevention and handling is the community policing method. Crime is not only committed by adult actors but

can also be committed by children. For this reason, the importance of a partnership between the police and the community in dealing with problems that occur conditionally in society in the future will be increasingly resolved.

Indonesian republic police members are expected to be able to overcome problems in the community, to support Polri's efforts to create security and public order. The primary responsibilities of the Police are to uphold public order and security, enforce the law, offer protection, protection, and service to the community, according to Law Number 2 of 2002 governing the Indonesian National Police. The Indonesian Republic Police are tasked with encouraging the neighborhood to increase neighborhood engagement, neighborhood legal knowledge, and neighborhood compliance with laws and regulations. Police Law, Article 14, Section 1, Letter C. Community Development has a function so that the National Police seeks to raise awareness from the community to participate in efforts to maintain security and order within the community itself, in its development the Police apply a program adopted from the police system in developed countries such as Japan and the United States, namely Community Policing, which is considered capable of assisting the efforts of the National Police in community development to create security and order in a better society. Then came the concept of community policing program which was strengthened on the basis of the Republic of Indonesia National Police Regulation Number 1 of 2021 concerning community policing. Community policing is a policing method developed in many countries, and is also one of the most important policing models in Asia. Therefore, Indonesia also adopted it.

The police can act as a mediator for minor criminal acts that occur in society. Not all problems that occur in society will be resolved with only one legal approach, other aspects that are not handled properly will create new vulnerabilities. So that the settlements of minor crimes outside the court by prioritizing sociological aspects today have been felt beneficial

The authors prepared a legal study titled "The Role of Poles in the Settlement of Mindful Criminal Actions Using the Restorative Justice Approach" based on the backdrop of this issue.

2. Problem Formulation

Moving on from the background of the problems previously described, there are a number of problems that will be studied in order to obtain a formulation of the problem that will be discussed. Restorative Justice approach

3. Research Methodology

The research method adopted is normative juridical research. Finding a rule of law, legal doctrines, or other legal principles to address a legal situation is the process of normative juridical study. The reason for using normative juridical is because the problem under study is the incompleteness of Community Policing regulations in handling minor crimes.

In this legal research, several approaches are used, including: First, the legal approach is carried out by examining existing regulations related to Community Policing which are still used today based on hierarchy, so that they can become arguments for solving legal issues. Second, the conceptual approach is an approach that refers to legal principles, which can be found in the views of scholars, legal doctrines, laws and court decisions.

The main point of study of this approach is the difference in decisions regarding several minor criminal cases, which were handled by the police which caused polemics among the public and law enforcement, given the incomplete regulations for handling minor crimes. Primary legal resources, secondary legal materials, and tertiary legal materials were utilised in this study.

4. Discussion

1) What part does Polmas play in using Restorative Justice to solve minor crimes?

Creating circumstances for justice and balance for both the criminals who committed the crimes and the victims themselves is the main goal of the restorative justice idea. The role of the Polmas in solving minor crimes using the Restorative Justice approach is clearly stated in Police Regulation Number 8 of 2021 Article 2 states that the handling of criminal acts based on restorative is carried out in the activities of carrying out the functions of the Criminal Investigation, investigation and investigation, at the stage of carrying out the functions of the Criminal Investigation, Community Development and Samapta Polri are carried out according to their duties and authorities in this case the Community Development Function and Samapta as part of the Duties and Main functions of the police can solve minor crimes with the Polmas approach, the role of Polmas in solving minor crimes using the Restorative Justice approach is carried out with a problem solving process to solve a problem, a way is needed so that it is easy to find solutions in solving the problem of minor crimes with the community policing approach using the scanning analysis response assessment method, many One way to do this is by using the following methods:

- a) Finding the phenomena that is a problem in the community, that the problem is perceived as a similar incidence, connected to the repeat of incidents that are of concern to the community and the police, is stage one scanning (problem identification) in problem solving.
- b) Stage 2 problem-solving analysis is a phase that the police and the community take to thoroughly examine the problem's core causes, including its location, the perpetrator's personality, and its origin.
- c) Stage 3 Problem Solving Response, the problem will still exist if in the long term solution the main cause is not sought, the response is an effort made after the problem has been clearly determined and analyzed, the purpose of the problem solving response is to respond to the hypothesis obtained in the analysis, following up on the problem solving and hypothesis and develop solutions to achieve a long-term and sustainable reduction in the number and extent of problems.

Furthermore, the community policing approach with justice Restorative justice is not attached to the duties, principals and functions of community guidance only in carrying out the function of handling restorative justice also involves other duties, principals and functions of the police, this is explained in police regulation number 1 of 2021 article 16 stated Polmas Officers assist the implementation of other functions, namely:

1. intelligence;

2. community development;
3. samapta bhayangkara; And
4. criminal detective.

And based on the Order of the Head of the Resort Police where Police Officers with the rank of non-commissioned officer to first officer are tasked with building partnerships with the community, and solving social problems that occur in the local community. At this stage Polmas officers are only tasked with assisting the implementation of the Criminal Investigation function in solving minor cases before being handled or followed up through Restorative Justice handling with tasks consisting of:

1. resolve minor cases or disputes between citizens;
2. develop information needed by the Sector Police/Resort Police in disclosing criminal cases including searching for/confronting suspects/witnesses/evidence; And
3. Receive information/reports/complaints about the occurrence of criminal acts.

Minor cases as referred to in accordance with the Criminal Code which regulates:

1. violation of public order;
2. minor crimes, consisting of:
 - a. minor mistreatment of animals;
 - b. minor mistreatment of humans;
 - c. petty theft;
 - d. light darkening;
 - e. light deception;
 - f. light shelter; And
 - g. mild insult,
 - h. which is punishable by imprisonment or confinement for a maximum of 3 (three) months or which causes a material loss of up to Rp. 2.500.000,- so that it can be concluded that Polmas in solving minor crimes using the Restorative Justice approach is limited to minor cases which are the formulation of Minor Crimes as stipulated in the Criminal Code. So that every report and complaint received by Polmas officers and the Integrated Police Service Center has different resolutions in following up on events suspected of being criminal acts with various assessments as follows:
 - a. Report received by Polmas officers. Steps taken:
 - 1) Assess Reports and complaints;
 - 2) If it is included in the Criteria which is a mild case, it can be followed up by Polmas officers by involving the community;
 - 3) If it is included in the Criteria which constitutes a Misdemeanor Crime, then the follow-up handling of the case is continued by the picket officer at the Integrated Police Service Center.
 - b. The report is received by the picket officer at the Integrated Police Service Center. Steps taken:
 - 1) Assess Reports and complaints;
 - 2) If the Criteria is included as a minor case, then the case handling can be followed up by the Polmas officers who have previously coordinated with the Community Development Unit Head;
 - 3) If it does not meet the Criteria for a Minor case and constitutes a Misdemeanor Crime, then it can be followed up by making a Police Report

by the Head of the Police Service Center by first coordinating with the picket function to assess reports and complaints as suggestions for resolving them with Restorative Justice;

- 2) What are the obstacles faced by Polmas in dealing with minor crimes with the Restorative Justice approach

Obstacles Faced by Polmas Officers Regarding the settlement of Misdemeanors in Implementing Restorative Justice Justice is also part of the settlement of minor crimes committed by Polmas officers in the form of problem solving. Problems are often encountered by Polmas officers due to several obstacles, including:

1. Law enforcers are not used to the process of settlement through mediation, there are still a few community police who know about and grasp the upsides of supportive equity;
2. The presence of an in outsider tackling an issue that happens in the public eye, which can influence the settlement cycle so the goal of the issue becomes challenging to determine;
3. Police Regulation Number 1 of 2021 concerning Community Policing is a strong legal basis for resolving minor cases through mediation. Polmas officers must have the courage to exercise discretion, because the legal basis is strong enough. As for the obstacles, they have not yet received socialization as a whole, both in theory and practice;
4. The law enforcement framework leads the analytical cycle, in the event that a suspect is exposed to confinement during the examination cycle, unavoidably it will go on in the following system, specifically arraignment and preliminary, so it is hard for local area policing to apply a helpful equity approach.
5. The gatherings don't consent to the intervention choice, for instance the litigant rehashes his activities. The public's doubt of policing (Polmas) is a middle person, so the local area has a pessimistic discernment, leading to pathetic doubts.
6. Restorative Justice is handled by the Criminal Investigation Unit with a special case title procedure so that Polmas officers who have received an Order from the Chief of Police can only handle minor cases involving community partnerships and problem solving methods.

5. Conclusion

Continuing on from the examinations that have been recently portrayed, it tends to be reasoned that the job of the Polmas in settling minor violations utilizing the Helpful Equity approach is that the Polmas is a party that is a middle person in the execution of this supportive equity. Albeit the Police Act and the Criminal Method Code don't obviously express the power of the Police, Polmas plays the part of go between in settling a minor wrongdoing at the degree of critical thinking prior to going into the examination cycle by police specialists.

Some of the obstacles that become obstacles in community policing include:

1. Police Regulation Number 1 of 2021 concerning Community Policing is a strong legal basis for resolving minor cases through mediation. Polmas officers must have the courage to exercise discretion, because the legal basis is strong enough. As for the obstacles, they have not yet received socialization as a whole, both in theory and practice;

2. The law enforcement framework leads the insightful cycle, in the event that a suspect is exposed to confinement during the examination cycle, unavoidably it will go on in the following system, to be specific arraignment and preliminary, so it is hard for local area policing to apply a helpful equity approach.
3. The gatherings don't consent to the intervention choice, for instance the litigant rehashes his activities. The public's doubt of policing (Polmas) is a middle person, so the local area has a pessimistic discernment, leading to pathetic doubts.
4. Restorative Justice is handled by the Criminal Investigation Unit with a special case title procedure so that Polmas officers who have received an Order from the Chief of Police can only handle minor cases involving community partnerships and problem solving methods.

References

- [1] W. Friedman, Teori dan Filsafat Hukum: Telaah Kritis Atasi Teori-Teori Hukum (Susunan I), Judul Asli: Legal Theory, PT. Persindo Persada, Jakarta, 1993.
- [2] Bambang Walutyo. Pidana dan Pemidanaan, Sinar Grafika, Jakarta, 2008.
- [3] Soerjono Soekanto, Pengantar Peneliti Hukum, UI Press, Jakarta, 1984.
- [4] I Made Agus Mahendra Iswara, Mediasi Penal Penerapan Nilai-Nilai Restoratif Justice Dalam Penyelesaian Tindak Pidana Adat Bali, Tesis, Program Pascasarjana Universitas Indoensia, Jakarta, 2013.
- [5] Ridwan Masyur. Mediasi Penal Terhadap Perkara Pidana KDRT (Kekerasan Dalam Rumah Tangga), Yayasan Gema Yustisia Indonesia, Jakarta, 2010.
- [6] Ni Komang Ratih Kumala Dewi. Peran Lembaga Pemerdayaan Masyarakat (LPM) Kuta Dengan Kepolisian Dalam Menanggulangi Tindak Pidana Pecuruian, Tesis, Program Pascasarjana, Universitas Udayana, Denpasar, 2015.
- [7] Satjipto Raharto. Membangun Polisi Sipil, Perspektif Hukum Sosial dan Kemasyarakatan, Buku Kompas, Jakarta, 2007.
- [8] Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
- [9] Undang-Undang Nombor 8 Tahun 1981 Tentang Kitab Undang- Undang Hukum Acara Pidana..
- [10] Undang-Undang Nombor 2 Tahun 2002 Tentang Kepolisian Negara Republik Indoensia..
- [11] Peraturan kepolisian Indonesia Nomor 1 Tahun 2021 Tentang Pemolisian Masyarakat.