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The Effectiveness of Resolving Minor Assault Offences Through the Restorative Justice Approach at the Police Investigation Level Based on Indonesian National Police Regulation Number 8 of 2021

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Keywords:

restorative justice; minor assault; police investigation; termination of investigation; legal certainty

ABSTRACT

This study examines the effectiveness of resolving minor assault offences through a restorative justice approach at the police level based on Indonesian National Police Regulation Number 8 of 2021. Using normative legal research with statutory and case approaches, the study found that the process involves receiving reports, conducting inquiries, examining witnesses and suspects, offering restorative justice, facilitating mediation between victims and offenders, and terminating the investigation after a peace agreement and withdrawal of the report. The process is supported by the parties' willingness to reconcile, family relationships, and fulfilment of victims' rights, while failure is mainly caused by ego, long-standing resentment, and unrealistic compensation demands. When restorative justice fails, the case proceeds through the ordinary criminal process, revealing normative disharmony among police, prosecutorial, and judicial regulations. Therefore, the study recommends regulatory harmonisation and stronger supervision mechanisms.

Kata Kunci:

keadilan restoratif; penganiayaan ringan; penyidikan kepolisian; penghentian penyidikan; kepastian hukum

ABSTRAK

Penelitian ini mengkaji efektivitas penyelesaian tindak pidana penganiayaan ringan melalui pendekatan keadilan restoratif di tingkat kepolisian berdasarkan Peraturan Kepolisian Negara Republik Indonesia Nomor 8 Tahun 2021. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan kasus. Hasil penelitian menunjukkan bahwa proses keadilan restoratif meliputi penerimaan laporan, penyelidikan, pemeriksaan saksi dan tersangka, penawaran keadilan restoratif, mediasi antara korban dan pelaku, serta penghentian penyidikan setelah tercapai perdamaian dan pencabutan laporan. Keberhasilan proses dipengaruhi oleh kesediaan berdamai, hubungan kekeluargaan, dan pemenuhan hak korban, sedangkan kegagalan umumnya disebabkan ego, dendam, dan tuntutan ganti rugi yang tidak realistis. Jika perdamaian gagal, perkara dilanjutkan melalui proses pidana biasa, yang menunjukkan adanya disharmoni antara peraturan kepolisian, kejaksaan, dan pedoman peradilan. Oleh karena itu, penelitian merekomendasikan harmonisasi regulasi dan penguatan mekanisme pengawasan.

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A. Introduction

Criminal law in Indonesia was originally constructed to protect the interests of the state, the government, society, and individuals, including the protection of a person's life, honour, and property.[1] To enforce substantive criminal law, a formal criminal procedure is required; however, after more than four decades of operation, the Indonesian Code of Criminal Procedure Kitab Undang-Undang Hukum Acara Pidana, hereinafter KUHAP has produced two major practical problems the accumulation of case files in courts and the overcapacity of correctional institutions.[2] One of the solutions introduced to overcome these problems is the concept of resolving cases outside the court, known as restorative justice.

Unlike resolution under the ordinary criminal procedure, settlement under the restorative justice concept emphasises the satisfaction of both conflicting parties; no one is defeated or victorious. In fact, the concept is rooted in the customary dispute-resolution practices of Indonesian indigenous communities.[3] Restorative justice does not focus on imprisonment but on the restoration or recovery of the victim's condition after the commission of an offence, and the offender may be required to pay compensation, perform social work, or take other reasonable measures.[4] Nevertheless, settlement through restorative justice differs from settlement by the community alone, because it is carried out and facilitated by law enforcement officials who form part of the criminal justice system, including the police.

One type of offence frequently resolved by the police through the restorative justice approach is minor assault under Article 352 of the former Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana, hereinafter KUHP), which remains applicable as the governing statutory basis during the empirical observation

[1] Resta and Effendi, "Penyelesaian Tindak Pidana Penganiayaan Ringan Melalui Pendekatan Restoratif Justice Di Wilayah Hukum Polresta Plekanbaru."
[2] Resta and Effendi, "Penyelesaian Tindak Pidana Penganiayaan Ringan Melalui Pendekatan Restoratif Justice Di Wilayah Hukum Polresta Pekanbaru."
[3] Gunawan, Dialog, and Fitriana, "Land Dispute Resolution: Village Deliberation and Consensus to Establish Public Order."
[4] Amran et al., "Efektivitas Penerapan Restorative Justice Terhadap Tindak Pidana Ringan Di Wilayah Hukum Kepolisian Resor Kota Jambi."

period prior to the full implementation of Law No. 1 of 2023 on the National Criminal Code. Assault is defined as the intentional infliction of pain, suffering, or injury upon another person, and minor assault is threatened with a maximum penalty of three months' imprisonment or a fine, provided that it does not fall under Articles 353 and 356 and does not cause illness or an obstacle to performing employment. The relevance of this offence category is confirmed by empirical data: the Indonesian Central Bureau of Statistics recorded 145,212 assault cases between 2017 and 2021, of which 94,475 were minor assaults, and the Indonesian National Police reported assault as the fourth most frequent crime in the period January–April 2023.[5]

The legal basis for the application of restorative justice by the Indonesian National Police is Indonesian National Police Regulation Number 8 of 2021 on the Handling of Criminal Acts Based on Restorative Justice Peraturan Kepolisian Nomor 8 Tahun 2021, hereinafter Perpol 8/2021. The regulation derives its authority from Articles 16 and 18 of Law Number 2 of 2002 on the Indonesian National Police, which empower the police, inter alia, to take other lawful measures and to act according to their own judgment for the public interest.6 Article 1 paragraph (3) of Perpol 8/2021 defines restorative justice as the resolution of a criminal act by involving the offender, the victim, the families of both, community leaders, religious leaders, customary leaders, or other stakeholders to jointly seek a fair settlement through peace, with an emphasis on restoring the original condition.

Despite this normative foundation, the effectiveness of restorative justice in minor assault cases remains questionable. Empirical research in Pekanbaru shows that Polresta Pekanbaru has implemented restorative justice in accordance with Perpol 8/2021 and that the approach has been quite effective in suppressing minor assault figures; yet in 2022 two of four minor assault cases, and in 2023 one of five cases, could not be resolved restoratively because victims refused reconciliation due to the absence of kinship, long-standing resentment, or the offender's

[5] Resta and Effendi, "Penyelesaian Tindak Pidana Penganiayaan Ringan Melalui Pendekatan Restoratif Justice Di Wilayah Hukum Polresta Pekanbaru."

unwillingness to compensate.[6] Research in Pontianak similarly found that restorative justice does not always succeed even though minor assault is classified as a minor crime; between 2020 and 2023, of 242 minor assault cases attempted, 63 ended in failure, principally because the parties could not reach a peace agreement due to differences in mindset and opinions on the fulfilment of rights and responsibilities.[7] This study therefore focuses on three problems. First, how the mechanism and stages of resolving minor assault offences through the restorative justice approach are implemented at the police level based on Perpol 8/2021. Second, what factors drive the success and what causes the failure of the application of restorative justice in minor assault cases at the investigation stage. Third, what legal consequences arise when the restorative justice process in a minor assault case fails at the police level. The objectives of this writing are to describe and analyse the mechanism and stages of restorative justice implementation for minor assault offences; to identify the driving factors of success and the causes of failure of its application at the investigation stage; and to examine the legal consequences of failure, including the implications for legal certainty.

Several previous studies have addressed related issues. Resta, Effendi, Andrikasmi, and Susanti examined the implementation of restorative justice for minor assault in the jurisdiction of Polresta Pekanbaru using an empirical method and concluded that the police had implemented restorative justice in accordance with Perpol 8/2021 through a mediation process bringing together victims, offenders, families, and community leaders.[8] Ismail, Aswandi, and Soa focused specifically on the failure factors of restorative justice in minor assault cases in Pontianak and identified the non-achievement of a peace agreement as the main failure factor.[9] Asriadi, Natsir, and Phireri analysed the factors hindering the

[6] Resta and Effendi, "Penyelesaian Tindak Pidana Penganiayaan Ringan Melalui Pendekatan Restoratif Justice Di Wilayah Hukum Polresta Pekanbaru."
[7] Ismail et al., "Kegagalan Penyelesaian Kasus Tindak Pidana Penganiayaan Ringan Melalui Restorative Justice Di Polresta Pontianak."
[8] Resta and Effendi, "Penyelesaian Tindak Pidana Penganiayaan Ringan Melalui Pendekatan Restoratif Justice Di Wilayah Hukum Polresta Pekanbaru."
[9] Ismail et al., "Kegagalan Penyelesaian Kasus Tindak Pidana Penganiayaan Ringan Melalui Restorative Justice Di Polresta Pontianak."

application of restorative justice in assault investigations in Polres Barru and found that the lack of agreement between the victim and the offender, together with insufficient budget, uneven understanding among officers, weak supervision, and inadequate facilities, constituted the principal obstacles.[10]

Other studies approached the problem from a normative and institutional perspective. Silaturrahmi and colleagues examined the disharmony between the spirit of restorative justice in Law Number 1 of 2023 on the new Criminal Code and the conventional procedures of KUHAP, particularly concerning the authority of investigators to terminate investigations on restorative justice grounds.[11] A'raafi and Kusumawati demonstrated that the arrangements for restorative justice differ across law enforcement institutions: the police regulation provides a relatively broad scope, whereas the Prosecutor's Office Regulation Number 15 of 2020 limits application to offences threatened with a maximum of five years' imprisonment and material losses not exceeding Rp2,500,000, and Supreme Court Regulation Number 1 of 2024 imposes yet another set of criteria, producing confusion and inconsistency in practice.[12] Hutajulu, Hadiyanto, and Ciptono analysed the relationship between police discretion, the principle of legality, legal certainty, and human rights protection, showing that the broad discretionary space of investigators and the use of open normative phrases such as 'public unrest' and 'potential social conflict' may lead to inconsistent practices.[13]

Nevertheless, a research gap remains. Most existing studies examine either the implementation of restorative justice in a single jurisdiction or the regulatory disharmony across institutions, but few integrate the three dimensions that determine effectiveness in minor assault cases the procedural mechanism, the empirical success and failure factors, and the legal consequences of failure.

[10] Asriadi et al., "Penerapan Restorative Justice Dalam Proses Penyidikan Tindak Pidana Penganiayaan."
[11] Silaturrahmi et al., "Implementasi Restorative Justice Dalam Tahap Penyidikan: Sinkronisasi UU No. 1 Tahun 2023 Dan KUHAP."
[12] A'raafi and Kusumawati, "Disharmoni Pengaturan Restorative Justice Antar Lembaga Penegak Hukum Di Indonesia Dalam Penyelesaian Perkara Pidana."
[13] River Hutajulu et al., "Restorative Justice Dan Diskresi Kepolisian Dalam Sistem Peradilan Pidana Indonesia."

Furthermore, no study has systematically connected the failure factors identified in empirical research with the normative consequences of such failure, including the shift to the special procedural track for minor offences and its implications for legal certainty.

The novelty of this study lies in its integrative normative analysis that combines the mechanism of Perpol 8/2021 with the empirical findings of previous research on success and failure factors, and in its development of the argument that the effectiveness of restorative justice for minor assault offences depends not only on the willingness of the parties but also on regulatory harmonisation and structured supervision. This study contributes to the development of an ideal model for law enforcement policy that integrates local wisdom, community leaders, and customary mediation within the regulatory framework of the police, in order to achieve legal certainty and substantive justice for both victims and offenders.

B. Research Method

This study employed normative legal research combined with documentary case analysis. To assess the 'effectiveness' of restorative justice based on Perpol 8/2021, the research relies on the synthesis of empirical findings, statistical reports, and documented case studies from previous literature (such as police jurisdictions in Pekanbaru, Pontianak, and Barru) rather than conducting primary field interviews, acknowledging this methodological limitation in evaluating normative implementation.

The approaches used were the statute approach and the case approach. The statute approach was conducted by examining all legislation relevant to restorative justice and criminal procedure, namely Article 352 of the KUHP, Articles 16 and 18 of Law Number 2 of 2002 on the Indonesian National Police, Perpol 8/2021, KUHAP, and the related regulations of the Prosecutor's Office and the Supreme Court. The case approach was conducted by examining the implementation of restorative justice in minor assault cases as documented in empirical studies of the police jurisdictions of Pekanbaru, Pontianak, and Barru, as well as the failure scenario that resulted in the continuation of proceedings before the Pontianak District Court.

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The legal materials consisted of primary, secondary, and tertiary materials. Primary legal materials comprised Article 352 of the KUHP, Law Number 2 of 2002 on the Indonesian National Police, Perpol 8/2021, and KUHAP. Secondary legal materials comprised criminal law literature, national and international scientific journals related to restorative justice, and studies on police discretion. Tertiary materials comprised legal dictionaries and encyclopaedias.

Legal materials were collected through library research by gathering, identifying, and classifying materials according to their relevance to the legal problems. The analysis was descriptive-analytical and critical the existing provisions were described, then analysed for their conformity, contradiction, or legal gaps, and conclusions were drawn through legal syllogism. Empirical findings from previous research were used to sharpen the normative analysis, in line with the theoretical framework that law enforcement must be assessed not only from the normative side but also from its operation in practice. The findings are presented in accordance with the order of the legal problems examined.

C. Results and Discussion

1. Mechanism and Stages of Resolving Minor Assault Offences Through Restorative Justice at the Police Level Based on Perpol 8/2021

a. Normative Foundation

The authority of the police to apply restorative justice in minor assault cases derives from the combination of Article 352 of the KUHP, which prohibits and penalises minor assault, and the administrative and procedural authority of the police under Law Number 2 of 2002. Article 16 paragraph (1) letter l of that Law empowers the police, in the framework of criminal process duties, to take other lawful and responsible measures, while Article 18 paragraph (1) allows police officials to act according to their own judgment for the public interest, subject to the conditions that the action is not contrary to law, is appropriate and reasonable within the scope of office, rests on a proper consideration based on compelling circumstances, and respects human rights.[14] Perpol 8/2021 operates as an internal

[14] Resta and Effendi, "Penyelesaian Tindak Pidana Penganiayaan Ringan Melalui Pendekatan Restoratif Justice Di Wilayah Hukum Polresta Pekanbaru."

technical regulation that guides the use of this discretion; it does not create a new criminal norm but operationalises the authority already granted by statute. From the perspective of the hierarchy of legislation, this positioning is correct and necessary, because a police regulation that created an independent ground for terminating cases would contradict the legality principle. Nevertheless, this also reveals the first structural weakness: because KUHAP does not expressly recognise restorative justice as a ground for terminating an investigation, every termination order issued on restorative justice grounds rests on an internal regulation whose normative force is weaker than the code of criminal procedure itself.[15]

b. Requirements: Material and Formal

Article 3 of Perpol 8/2021 states that handling of criminal acts based on restorative justice may only be conducted if the general and special requirements are fulfilled. Article 5 regulates the material requirements:

1) The act does not cause public unrest and/or rejection from society;
2) It does not have an impact of social conflict;
3) It does not have the potential to divide the nation;
4) It is not related to radicalism and separatism;
5) The offender is not a repeat offender on the basis of a court decision; and
6) The act is not terrorism, a crime against state security, corruption, or a crime against a person's life.

Article 6 regulates the formal requirements peace from both parties, evidenced by a peace agreement signed by the parties, except for narcotics offences; and the fulfilment of the victim's rights and the offender's responsibility, such as the return of goods, replacement of losses, or payment of costs arising from the criminal act, evidenced by a statement signed by the victim, except for narcotics offences.[16]

For minor assault under Article 352 of the KUHP, the material requirements are generally satisfied: the offence is interpersonal, ordinarily causes limited injury,

[15] Silaturrahmi et al., "Implementasi Restorative Justice Dalam Tahap Penyidikan: Sinkronisasi UU No. 1 Tahun 2023 Dan KUHAP."
[16] Peraturan Kepolisian Negara Republik Indonesia Nomor 8 Tahun 2021 Tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif, Arts. 3, 5, 6.

does not endanger state security, and is not a crime against life. The requirement that the offender not be a repeat offender functions as an important filter, because repeat offenders exhibit a high risk of recidivism for which restorative settlement is considered inappropriate.[17] However, the open phrases used in the material requirements, particularly 'public unrest' and 'potential social conflict', leave a wide interpretive space that may produce divergent assessments among investigators in different jurisdictions.[18]

c. Stages of Implementation

The implementation of restorative justice in minor assault cases at the police level proceeds through the following stages.[19]

1) Receipt of the victim's report. When the victim of an assault reports the incident, the police service desk (SPKT) receives the initial report, records it, and prepares a police report, followed by an initial examination (BAP) of the reporter/victim containing the chronology, the identity of the perpetrator, the type of assault, witnesses, evidence, and the losses suffered.
2) Inquiry and issuance of assignment order. The criminal investigation unit conducts an inquiry based on a task order, visits the scene, collects evidence and witness information, and analyses whether there is sufficient evidence to elevate the case to the investigation stage through an order to commence investigation.
3) Examination of the victim and witnesses, and delivery of the notification of the progress of the investigation (SP2HP). The victim is summoned as a witness under Article 116 of KUHAP, and the SP2HP is issued as a form of transparency and accountability towards the victim.
4) Examination of the suspect. After sufficient witness statements and evidence are obtained, the reported person is examined and may be

[17] Igvan Nagif Syahyudin et al., "Implikasi Penerapan Restorative Justice Terhadap Kepastian Hukum Dan Perlindungan Hak Korban Residivis Penganiayaan Berat."
[18] River Hutajulu et al., "Restorative Justice Dan Diskresi Kepolisian Dalam Sistem Peradilan Pidana Indonesia."
[19] Resta and Effendi, "Penyelesaian Tindak Pidana Penganiayaan Ringan Melalui Pendekatan Restoratif Justice Di Wilayah Hukum Polresta Pekanbaru."

designated as a suspect, with due respect for the rights of the suspect under Articles 114 and 115 of KUHAP.

5) Offering of the restorative justice option. After the examinations, the investigator, if the case satisfies the requirements of Perpol 8/2021, offers the parties the option of resolving the case peacefully through restorative justice, explaining that the option is voluntary and without coercion.
6) Family meeting. The parties are given time to hold a family meeting involving the families of both parties and, where necessary, community, customary, or religious leaders.
7) Facilitated mediation. A mediator, commonly a Bhabinkamtibmas, brings together the victim, the victim's family, the offender, the offender's family, the village head, and customary leaders. The mediator guides the discussion so that each party can express its perspective and needs; the victim explains the impact suffered, while the offender is encouraged to acknowledge the wrong and offer responsibility.[20]
8) Confirmation meeting at the police office. The investigator invites the families again to explain the results of the family meeting, clarifies whether the agreement reflects the free will of both parties, and prepares the documentation.
9) Peace agreement. The agreement, which typically contains an apology, compensation, a commitment not to repeat the act, and the victim's willingness to forgive and not to continue the legal process, is signed by the parties and submitted to the investigator.
10) Withdrawal of the report. The victim makes a formal statement withdrawing the report, signed before the investigator with a stamp duty.
11) Termination of the investigation. On the basis of the peace agreement and the withdrawal of the report, the investigator issues a Surat Perintah Penghentian Penyidikan (SP3, order for termination of investigation)

[20] Al Banna and Fitriana, "Dispute Resolution on Overlapping Land Certificate Through Mediation Based on The Regulation of The Minister of Agrarian Affairs And Spatial Planning Number 11 Year 2016."

through a special case conference under supervision, and the case is recorded in the restorative justice register; the victim and the offender are notified, detained property is returned, and any detained suspect is released. The investigator continues to monitor the implementation of the agreement and may reopen the investigation if the offender violates it.[21]

d. Critical Assessment

From a doctrinal viewpoint, this mechanism reflects a shift of penal orientation from retributive justice to restorative justice. Under the retributive paradigm, the measure of justice is proportionate retaliation against the offender; under the restorative paradigm, the harmful act is healed by supporting the victim and requiring the offender to take responsibility, with the assistance of family and community. The mechanism also embodies the progressive law enforcement perspective, in which law is treated as an institution that serves humanity rather than as a rigid technology, and police officers are expected to interpret and apply rules by considering their deeper meaning and social purpose.[22]

However, the author's assessment is that two elements of the mechanism require strengthening. First, the withdrawal of the report and the peace agreement, while demonstrating the victim's satisfaction, should not be treated as mere administrative formalities; research shows that victims may accept agreements because of social pressure or imbalanced power relations rather than genuine justice, so investigators must actively verify the voluntariness and fairness of every agreement.[23] Second, the supervisory layer provided by Articles 19 and 20 of Perpol 8/2021 (supervision by the internal supervision function and a special case conference) remains weakly implemented in practice, so that the quality of mediation and the fulfilment of agreements are not consistently evaluated.[24]

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[21] Peraturan Kepolisian Negara Republik Indonesia Nomor 8 Tahun 2021, Arts. 15–20.
[22] Gemilang, "Restorative Justice Sebagai Hukum Progresif Oleh Penyidik Polri."
[23] Igvan Nagif Syahyudin et al., "Implikasi Penerapan Restorative Justice Terhadap Kepastian Hukum Dan Perlindungan Hak Korban Residivis Penganiayaan Berat."
[24] Asriadi et al., "Penerapan Restorative Justice Dalam Proses Penyidikan Tindak Pidana Penganiayaan."

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Without effective supervision, the mechanism risks becoming a discretionary shortcut rather than a genuine instrument of restorative justice.[25]

2. Driving Factors of Success and Causes of Failure in the Application of Restorative Justice in Minor Assault Cases at the Investigation Stage

a. Research Findings from Previous Empirical Studies

Empirical research in several jurisdictions demonstrates that the application of restorative justice in minor assault cases is effective when its requirements are fulfilled, but effectiveness is never automatic. In Pekanbaru, of eleven assault reports between January and July 2022, three were resolved through restorative justice; in 2022, two of four minor assault cases were resolved restoratively, and in 2023 four of five cases were so resolved. The overall number of assault cases in the jurisdiction decreased from 65 cases in 2022 to 39 cases in 2023, which the researchers attributed in part to the restorative approach.29 Conversely, the unresolved cases reveal the empirical limits of the mechanism: in one case the victim refused reconciliation because there was no kinship relation with the offender, there was long-standing resentment, and the offender refused to bear the medical costs; in another, the victim felt insulted and refused to withdraw the report even though the case had been transferred to the prosecution.[26]

In Pontianak, of 242 minor assault cases attempted through restorative justice between 2020 and 2023, only 179 succeeded and 63 failed. The failed case of Sri Rahayu and Mery Yuninda illustrates the dynamics: the parties, who were neighbours and members of the same savings association, accused each other of assault; seven mediation meetings were held, but the victim demanded compensation for medical costs equal to the price of a motorcycle, which the other party considered irrational for minor injuries; high egos, mutual accusations of bias against the police, and family pressure transformed the case into a court proceeding.[27] In Barru, the factors hindering implementation were identified as the

[25] Fitriana, "The Influence of Police Actions on the Dynamics of Crime Rates in Society."
[26] Resta and Effendi, "Penyelesaian Tindak Pidana Penganiayaan Ringan Melalui Pendekatan Restoratif Justice Di Wilayah Hukum Polresta Pekanbaru."
[27] Ismail et al., "Kegagalan Penyelesaian Kasus Tindak Pidana Penganiayaan Ringan Melalui Restorative Justice Di Polresta Pontianak."

absence of agreement between victim and offender, inadequate budgetary support, uneven understanding of restorative justice among officers, weak inherent supervision, limited public understanding, and the absence of a dedicated mediation room.

b. Driving Factors of Success

First, the willingness of the parties and the lowering of ego. Research in Pontianak identifies feelings, conscience, and the suppression of ego as major internal factors, particularly for the reporter in forgiving the reported person; setting aside ego allows the reporter to overcome feelings of resentment and shame and to give the offender an opportunity to live without imprisonment. The Pekanbaru case of a perpetrator who assaulted the victim after a dispute between their children shows that kinship between the parties and the offender's prompt visit to apologise, combined with the victim's own feeling of regret for reporting immediately, created the conditions for a successful peace.[28][29]

Second, the legal awareness and readiness of the parties to accept non-litigious settlement. External factors include education on law provided by law enforcement officials and by persons around the parties, which builds the understanding that justice and compensation can be obtained through familial settlement rather than only through trial, as well as the availability of adequate legal institutions such as the police and legal aid institutions.

Third, the fulfilment of the victim's rights as the structural centre of restorative justice.[30] Because restorative justice is oriented towards the recovery of the victim's condition, agreements that concretely restore the victim compensation of medical costs, apology, and guarantees of non-repetition generate durable peace and reduce the likelihood that the victim will retract the settlement.

[28] Brett, "Victim-Centred Peacemaking."
[29] Fitriana, "Faktor Berhasilnya Mediasi Dalam Perkara Perceraian."
[30] Nuramelia et al., "Reorientasi Perlindungan Saksi dan Korban dalam Sistem Peradilan Pidana Indonesia dari Pengaturan Parsial Menuju Model Perlindungan Terpadu."

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c. Causes of Failure

First, the prioritisation of ego and personal interest. A high ego gives rise to resentment, hurt, and unwillingness to forgive, and victims may perceive settlement as an avenue for extracting excessive advantage. The Pontianak case shows how ego, mutual accusations of partiality against the police, and an irrational compensation demand defeated seven mediation meetings.[31] The author's assessment is that the absence of a legal benchmark for compensation is the single most correctable regulatory deficiency because neither Perpol 8/2021 nor the implementing guidelines determine a method for calculating compensation, negotiations frequently collapse on the amount, and the investigator lacks an objective reference to declare a demand unreasonable.

Second, the absence of kinship and the presence of long-standing resentment. The Pekanbaru findings show that victims who have no kinship relation with the offender and who harbour old grudgements tend to reject mediation outright, particularly where the offender shows no responsibility, such as failing to visit the victim or to bear hospital costs.

Third, institutional and capacity factors: uneven understanding of restorative justice among investigators, the absence of specialised mediation training, inadequate budget, weak supervision, and the lack of proper mediation facilities all reduce the quality of facilitation and the parties' trust in the process. [32]Table 1 summarises the factors identified across the reviewed jurisdictions.[33]

Table 1 Factors of Success and Failure of Restorative Justice in Minor Assault Cases

Category	Factor	Source of Findings
Driving factors	Willingness of the parties; lowering of ego; forgiveness	Pontianak; Pekanbaru
Driving factors	Kinship relations and prompt apology by the offender	Pekanbaru

[31] Pangaribuan, "Indonesia's Criminal Justice System."
[32] Asriadi et al., "Penerapan Restorative Justice Dalam Proses Penyidikan Tindak Pidana Penganiayaan."
[33] Putri et al., "Implementasi Restorative Justice Oleh Penyidik Polresta Cirebon Sebagai Upaya Penyelesaian Tindak Pidana Umum."

Driving factors	Legal awareness; education by law enforcement and community	Pontianak
Driving factors	Concrete fulfilment of the victim's rights (compensation, apology, non-repetition guarantee)	Pekanbaru; Barru
Causes of failure	Ego, resentment, and shame; refusal to forgive	Pontianak; Pekanbaru
Causes of failure	Unrealistic compensation demands; absence of legal benchmark for loss calculation	Pontianak
Causes of failure	Absence of kinship; long-standing grudges; offender's irresponsibility	Pekanbaru
Causes of failure	Weak institutional capacity: untrained mediators, limited budget, inadequate facilities	Barru; five Polda study
Causes of failure	Weak supervision and recording of restorative justice settlements	Barru; five Polda study

Source: Author's analysis based on Resta et al. (2024); Ismail et al. (2024); Asriadi et al. (2024); and Koto et al. (2023).

d. Analytical Synthesis

Synthesising these findings, the effectiveness of restorative justice in minor assault cases can be modelled as a function of three variables: the relational variable kinship, history of conflict, and the parties' emotional readiness, the material variable and the institutional variable. The first variable lies largely outside the reach of regulation; the second and third variables, however, are directly regulable, and it is precisely these regulable variables that current regulation leaves underdetermined. The author's analysis therefore supports the conclusion that the effectiveness of Perpol 8/2021 in minor assault cases is structurally constrained the regulation provides a sound procedural chassis, but it leaves the two points at which most failures occur compensation standards and mediator capacity almost entirely to ad hoc discretion.

3. Legal Consequences of the Failure of Restorative Justice in Minor Assault Cases at the Police Level

a. Continuation of the Ordinary Criminal Process

When restorative justice fails because the parties do not reach a peace agreement or one party withdraws from the agreement, the immediate legal consequence is the continuation of ordinal criminal proceedings. In the Pontianak case study, after the failure of mediation, the investigators forwarded the case files directly to the Pontianak District Court utilizing the accelerated procedure for minor offences (*tindak pidana ringan, tipiring*) pursuant to Article 205 paragraph (1) of KUHAP and Supreme Court Regulation Number 2 of 2012, bypassing the conventional prosecution stage to ensure procedural expediency.[34]

b. The Special Procedure for Minor Offences (Tipiring)

For minor offences that qualify under Article 205 paragraph (1) of KUHAP as read with Supreme Court Regulation Number 2 of 2012 offences threatened with a maximum of three months' imprisonment or a fine not exceeding Rp7,500 the examination is conducted through the accelerated procedure before a single judge, in which the investigating officer acts as the public prosecutor and notifies the commencement of the hearing to the prosecutor[35]. In the Pontianak case, the single judge examined both defendants under this procedure and imposed a sentence of one month's imprisonment, conditionally suspended during a three-month probationary period, with court costs of Rp5,000; both defendants were declared proven guilty of minor assault under Article 352 of the KUHP.[36] The author's assessment is that this outcome exposes the cost asymmetry of failure after seven mediation meetings and the exhaustion of the parties' resources, the court ultimately imposed a symbolic punishment that neither restored the victim nor deterred the

[34] Ismail et al., "Kegagalan Penyelesaian Kasus Tindak Pidana Penganiayaan Ringan Melalui Restorative Justice Di Polresta Pontianak."
[35] Prawira, "Analisis Yuridis Tindak Pidana Pencurian Ringan Dalam Kasus Pencurian Getah Karet Oleh Kakek Samirin."
[36] A'raafi and Kusumawati, "Disharmoni Pengaturan Restorative Justice Antar Lembaga Penegak Hukum Di Indonesia Dalam Penyelesaian Perkara Pidana."

offender precisely the outcome that restorative justice was designed to avoid, and one that adds procedural cost without commensurate penal benefit.

c. Failure as a Source of Legal Uncertainty

Beyond the individual case, the failure of restorative justice has systemic legal consequences. First, it triggers the interaction of conflicting regulatory regimes. A case that satisfies the material and formal requirements of Perpol 8/2021 at the police stage may subsequently be assessed under the stricter criteria of Prosecutor's Office Regulation Number 15 of 2020 (maximum threat of five years and material loss not exceeding Rp2,500,000) and Supreme Court Regulation Number 1 of 2024 (minor offences, delik aduan, or offences with a maximum threat of five years), so that a case lawfully terminated by the police could be evaluated differently by the prosecution or the courts.[37] Because KUHAP's exhaustive grounds for terminating an investigation in Article 109 paragraph (2) do not include restorative justice, an SP3 issued on restorative grounds lacks an explicit footing in the code of criminal procedure, which creates normative uncertainty for investigators and exposes termination decisions to challenge.

Second, failed negotiations followed by prosecution erode the predictability and deterrent message of the law. Where the public observes that a serious assault can first be negotiated and then punished only symbolically, the general preventive function of criminal law weakens and perceptions of unequal treatment may arise, contrary to Article 27 paragraph (1) of the 1945 Constitution and the principle of equality before the law.[38]

Third, and conversely, coercive or superficially 'successful' settlements create risks for the victim: agreements obtained under social pressure, or without genuine fulfilment of the victim's rights, amount to administrative closure rather than substantive justice and may expose the victim to revictimisation if the offender

[37] Putri Qomariyah Dewi Kumala et al., "Restorative Justicesebagai Upaya Alternatif Penyelesaian Tindak Pidanadi Indonesia Berdasarkan Peraturan Kejaksaan Republik Indonesianomor 15 Tahun 2020."
[38] Igvan Nagif Syahyudin et al., "Implikasi Penerapan Restorative Justice Terhadap Kepastian Hukum Dan Perlindungan Hak Korban Residivis Penganiayaan Berat."

repeats the conduct. This dual risk under-punishment after failed negotiation and pseudo-settlement under pressure confirms that the legal consequences of failure cannot be reduced to the formal continuation of the process; they implicate the balance among legal certainty, utility, and substantive justice that underlies the entire criminal justice system.

d. The Ideal Model Going Forward

Drawing the three discussions together, the author's proposal is a three-layer model. At the normative layer, the grounds for terminating an investigation in Article 109 of KUHAP should be expanded to recognise restorative settlement explicitly, and the criteria of Perpol 8/2021, Prosecutor's Office Regulation Number 15 of 2020, and Supreme Court Regulation Number 1 of 2024 should be harmonised under a single national framework.[39] At the operational layer, the regulation should fix a compensation benchmark referring, for example, to documented medical costs, visum et repertum fees, and reasonable immaterial loss so that negotiations have an objective anchor, and investigators should receive structured mediation training with certification. At the supervisory layer, every settlement should be recorded in a standardised register, verified through the special case conference, and subject to risk-based audit by the internal supervision function, so that the voluntariness and implementation of each agreement are verifiable. Only when these regulable variables are secured can the effectiveness of restorative justice for minor assault rest on something firmer than the fluctuating goodwill of the parties.

D. Conclusion

The resolution of minor assault offences through restorative justice under Perpol 8/2021 involves report receipt, inquiry, examination of the victim, witnesses and suspect, voluntary restorative justice offers, family meetings, facilitated mediation, peace agreements, withdrawal of reports, and termination of investigations through a special case conference. Although the mechanism is

[39] Azis and Pujiyono, “Causative-Victim Tracing for Integrative Criminal Policy on AI Deepfake Face and Voice Crimes in Indonesia.”

supported by police discretionary authority under Law Number 2 of 2002, its legal basis remains weak because KUHAP does not expressly recognise restorative settlement as grounds for terminating an investigation.

Success is influenced by the parties' willingness to reconcile, reduced ego, kinship, legal awareness, and fulfilment of victims' rights. Failure is mainly caused by ego, resentment, lack of kinship, unrealistic compensation demands, and weaknesses in mediator capacity, resources, facilities, and supervision. When restorative justice fails, the case proceeds through the ordinary criminal process, potentially resulting in disproportionate procedural costs and exposing disharmony among police, prosecutorial, and judicial regulations.

Therefore, the study recommends revising KUHAP to expressly recognise restorative settlement, harmonising relevant regulations, establishing compensation and mediation standards, strengthening mediator training, and improving supervision through documentation, case-conference verification, and risk-based audits. These measures are necessary to ensure that restorative justice provides legal certainty, accountability, and substantive justice for both victims and offenders.

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