

Restorative Justice in The Application of Criminal Acts Through Police Discretion Based on Local Wisdom

¹ Widodo Sugiharto, ² Sutarman Yodo, ³ Sulbadana

^{1,2,3} Universitas Tadulako

¹ Widodosgt8@gmail.com, ² sutarman.yodo@gmail.com, ³ sul_44@yahoo.com

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Abstract

This research aims to: (1) Understand and analyze the application of Discretion by the Police in resolving criminal acts. (2) Understand and analyze whether Police Discretion can be used as a basis for resolving criminal acts based on Restorative Justice. (3) Understand and analyze whether Local Wisdom values can strengthen Discretion in resolving criminal acts based on Restorative Justice. This research uses a normative-empirical research type. The use of this research type is based on the formulation of the problem proposed as a logical consequence of the research legal issue in the background of the problem. This research type is used in accordance with the formulation of the proposed problem. Research results: (1) The application of Discretion by the Police in resolving criminal acts. Criminal law enforcement with the authority of Police Discretion, in its implementation prioritizes the Restorative Justice approach, namely the resolution of criminal cases by involving the perpetrator, victim, perpetrator/victim's family and other related parties to jointly resolve fairly by emphasizing restoration to the original state. (2) Police Discretion can be used as a basis for resolving criminal acts based on Restorative Justice. Discretion based on the Restorative Justice approach is a paradigm that can be used as a framework for handling criminal cases through the conventional criminal justice system in Indonesia. Police Discretion based on Restorative Justice, handling criminal cases based on the National Police Chief Circular Number: SE/8/VII/2018 dated July 27, 2018 concerning the Application of Restorative Justice in the Settlement of Criminal Cases, which serves as a guideline for Investigators in resolving cases through Restorative Justice at the investigation and investigation level. (3) Local Wisdom values can strengthen Discretion in resolving criminal acts based on Restorative Justice. The revitalization of Local Wisdom is a strategy used to revive community traditions and culture so that they can be used as an alternative by the Police in resolving criminal acts.

I. Introduction

The independence of the Indonesian nation, achieved through the grace of God Almighty and through the struggle of the entire Indonesian people, must be filled with development efforts in all fields, including political, economic, social, cultural, and even legal development. The enforcement of justice based on law must be carried out by every citizen, every state organizer, every state institution, and every community institution, including the police institution.

The nomenclature of the police institution is introduced in Article 30, paragraph 4 of the 1945 Constitution of the Republic of Indonesia, which states "The National Police of the Republic of Indonesia" as a state instrument that maintains public security and order, tasked with protecting, nurturing, serving the community, and enforcing the law. Furthermore, Article 2 of Law Number 2 of 2002 concerning the Police states that the main tasks of the police are to maintain public security and order, enforce the law, and provide protection, guidance, and service to the community. Based on these regulations, the Police are a state instrument that acts as one of the actors in law enforcement efforts in Indonesia.

One of the legal foundations used in law enforcement is criminal law. Criminal law, by its definition, has been agreed upon as part of public law (*algemene belangen*). (Gindriansyah et al., 2022) With such a characteristic, if someone commits a criminal act that harms the interests of another person, the legal consequences for the perpetrator do not only become the right of the victim of the crime, but also evolve into a shared responsibility of the entire family, society, and ultimately, these legal consequences also become part of the state's responsibility. The pursuit of justice in criminal cases fully relies on the system or pattern established by the Police, the Prosecutor's Office, the Courts, and the Correctional Institutions. However, the justice provided by the State may not necessarily align with the desires of those seeking justice themselves, because fundamentally, each person has different needs and levels of acceptability regarding the sense of justice. (Zufa, 2011)

Furthermore, Yahya Harahap describes criticism towards the judicial institutions, stating that the time frame for resolving disputes through litigation is very long, the estimated costs of litigation are high, the courts are not very responsive, court decisions do not resolve issues, and judges

have generalist capabilities.(Harahap, 1997) In addition, the imposition of punishment, no matter how light, essentially constitutes the deprivation of basic human rights. Therefore, the use of punishment as a means of criminal policy must be based on reasons that can be justified philosophically, legally, and sociologically.(Usman, 2011)

One solution to realize this idea is by implementing the Restorative Justice model, often translated as Keadilan Restoratif. This approach emerged in the 1960s as a method for resolving criminal cases, differing from the conventional criminal justice system. This approach emphasizes the direct participation of the perpetrator, the victim, and the community in the process of resolving criminal cases.(Apriyanto, 2016) Handling criminal cases with a Restorative Justice approach offers a different perspective and method in understanding and addressing a criminal act. From the viewpoint of Restorative Justice, the essence of a criminal act is fundamentally similar to the general perspective of criminal law, which views it as an attack on individuals and society as well as on community relationships.(Manan, 2008)

Restorative Justice is a model of resolving criminal cases that is increasingly being used in various regions of Indonesia. According to the data on handling criminal cases through Restorative Justice released by the Indonesian National Police throughout 2022, it is as follows:

Table 1
Data on Handling Criminal Acts Based on Restorative Justice
Period 2022

No	Criminal Case Type	Number of cases
1.	Criminal Cases Occurred/Reported	276.507 Cases
2.	Resolution of Criminal Cases	200.147 Cases
3.	Resolution of Criminal Cases through Legal Process	184.338 Cases
4.	Resolution of Criminal Cases through Restorative Justice	15.809 Cases

Sumber Data : Tribrata News.babel.polri.go.id

Based on the table above, it can be seen that throughout the year 2022 there were a total of 276,507 reported criminal cases, with 200,147 cases resolved, 164,338 cases resolved through legal processes, and 15,809 cases resolved through Restorative Justice. Resolving cases through

Restorative Justice not only results in substantive justice but also greatly helps in minimizing overcrowding in correctional facilities throughout Indonesia.

The East Java Regional Police and the North Sumatra Regional Police are the institutions that most frequently apply Restorative Justice in resolving crimes within their respective areas. Meanwhile, the West Kalimantan Regional Police, East Kalimantan Regional Police, and Bengkulu Regional Police are the three institutions that apply Restorative Justice the least. Specifically, the discontinuation of investigations through the mechanism of Restorative Justice is most commonly applied by the North Sumatra Regional Police, East Java Regional Police, and West Java Regional Police. As for the handling of criminal cases using restorative justice in the legal jurisdiction of the Central Sulawesi Regional Police, the data is detailed in the table 2 below:

Table 2
Data on Handling Criminal Acts based on Restorative Justice
In the Central Sulawesi Regional Police Area
2022 Period

NNo	Work Unit	Police Report	Resolution	Work Unit	Police Report
11	Polres Palu	1.847	961	874	87
22	Polres Banggai	647	366	297	69
33	Polres Banggai Kepulauan	301	191	112	89
44	Polres Buol	381	281	183	98
55	Polres Donggala	413	269	131	138
66	Polres Morowali	207	193	110	83
77	Polres Morowali Utara	352	231	140	91
88	Polres Parigi Moutong	385	192	127	65
99	Polres Poso	137	119	94	25
110	Polres Sigi	432	327	234	93
111	Polres Tojo Una-Una	287	146	67	79
112	Polres Toli-Toli	327	279	186	93
1	Jumlah	5.716	3.555	2.555	1.010

Sumber : Data Kepolisian Daerah Sulawesi Tengah Tahun 2022

Based on the table above, it can be seen that throughout the year 2022 there were 5,716 cases of Police Reports, of which 3,555 cases were successfully resolved. Among these, 2,555 cases were resolved through the judicial system, while 1,010 cases were resolved through the Restorative Justice process. Donggala Police Resort is the institution that most extensively implements restorative justice in its area. Meanwhile, Poso Police Resort, Parigi Moutong Police Resort, and Banggai Police Resort are the three institutions that least implement Restorative Justice in the Central Sulawesi Police Region.

Based on this data, in practice, many members of society and law enforcement officials have yet to realize the importance of the Restorative Justice model in the criminal justice system. This is because the perception persists that crime victims always feel aggrieved and perpetrators need to receive punishment commensurate with their actions. However, contemporary penal concepts have moved away from mere retribution for a crime towards aligning the interests of victim recovery and perpetrator accountability.

Given the above, the police, as the gateway to the implementation of Restorative Justice through their discretionary authority as stated in Article 18 of Law Number 2 of 2002 concerning the Police, have the right to act according to their own judgment for the public interest. However, such actions must be in accordance with the provisions of Article 4 of Law Number 2 of 2002 concerning the Police, which upholds human rights. The term "Police Discretion" is known as "other authority" according to Article 15 Paragraph 2 letter k of Law Number 2 of 2002 concerning the Police, and according to Article 16 Paragraph (1) letter l of Law Number 2 of 2002 concerning the Police, it is known as "other actions according to responsible law" and according to Article 7 Paragraph 1 letter J (Criminal Procedure Code) it is known as "any actions according to responsible law".

The discretionary authority possessed by the police as a state institution and as public officials in law enforcement (Law Enforcement) is not unfamiliar. However, when a police investigator handles a criminal case, they are sometimes faced with problems perceived as minor, less effective, and efficient for conducting investigations until they are referred (P21) to the Public Prosecutor's Office, and subsequently to the Court for judgment by the Judge.

In practice, the implementation of Restorative Justice, whether by the

Police, Public Prosecutor's Office, or Judiciary, is still relatively unclear because there is no specific legislation regulating the issue of Restorative Justice. Although there is no explicit legislation outside Law Number 11 of 2012 concerning the Juvenile Justice System. However, it has been practiced based on regulations made by each law enforcement agency. Law enforcement agencies can implement Restorative Justice, reconcile, mediate both parties, then make commitments, and reach agreements (peace). For the investigative level (Police), Restorative Justice is regulated through Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. The Public Prosecutor's Office, based on the Attorney General Regulation Number 15 of 2020 and Circular Letter from the Chief Prosecutor's Office of Criminal Prosecution Number: 01/E/EJP/02/2022 dated February 10, 2022 concerning the Implementation of Termination of Prosecution Based on Restorative Justice.

Based on the above, it can be concluded that the legal basis used by both law enforcement agencies has the same position, but the substance of the legal norms or legal bases held by these three institutions is certainly different. This difference is interesting to research in order to find a common ground in handling criminal cases using the Restorative Justice approach. Ideally, the implementation of Restorative Justice at the Police level should involve the public prosecutor as a party involved in the peace process conducted by the victim and the perpetrator. Conversely, in the prosecution stage, the investigator should be involved as a party witnessing the peace process. Therefore, in the Restorative Justice process at each stage, it is necessary to involve and coordinate investigators and public prosecutors as a form of horizontal supervision.

Based on the background outlined above, the author is interested in conducting research entitled "Restorative Justice in the Implementation of Criminal Acts Through Police Discretion Based on Local Wisdom." The formulation of the problem in this research is:

- a. How is the implementation of Police Discretion in the resolution of criminal acts?
- b. Can Police Discretion be used as a basis for resolving criminal acts based on Restorative Justice?
- c. Can the value of Local Wisdom strengthen Discretion in the resolution of criminal acts based on Restorative Justice?

2. Research Method

This research utilizes a normative-empirical research type. The choice of research type is based on the problem formulation posed as a logical consequence of the legal research issue in the background of the problem. This research type is used in accordance with the problem formulation presented. Based on the problem formulation, the type or kind of research to be used in this proposal is normative-empirical legal research. The normative legal research type is used to address the first and second problem formulations, while the empirical legal research type is used to address the third problem formulation.(Muhammad, 2010)

In addition to determining the type of research, it is also necessary to determine the nature of the research that will be applied to the focus of the research object. The nature of research is the characteristic of research that describes the division of objectives or the classification of research objects that researchers will use to conduct the research.(Muhammad, 2014) Due to this research focusing on the alignment between theory and practice (case study), the researcher designated the nature of the study as explanatory case study to address the formulated problem. The research locations are Polresta Palu and Polres Parigi Moutong, Central Sulawesi Regional Police. The population in this study consisted of 25 individuals, comprising 8 Police Officers/Investigators from Polresta Palu and Polres Parigi Moutong, and 17 Traditional Leaders and community members from the respective areas. The selection of this population was aimed at obtaining a comprehensive perspective from parties involved in handling cases related to customs, both from law enforcement, traditional leaders representing indigenous communities, and the general public affected by such cases.

In collecting legal materials and research data, it was adjusted according to the type and nature of the research used. The normative legal research type utilized legal material collection techniques through documentation guidance. This documentation guidance was used to gather primary legal materials, secondary legal materials, and tertiary legal materials.(Soekanto & Mahmudji, 2013) As for the technique of collecting data in normative-empirical legal research, it involves using interview guides (in-depth interviews) and questionnaires (closed and open-ended) as well as documentation guides. The analysis technique employed in this research includes legal reasoning, legal argumentation, and legal

hermeneutics. The steps of legal analysis are as follows: first, inventorying legal materials and data in accordance with the research objectives. Second, identifying legal materials and data in line with the formulated research problems. Third, categorizing legal materials and data in the form of tables or diagrams to facilitate analysis according to the presented issues. Fourth, analyzing legal materials and data using falsification tests (conceptual truth tests) against the legal materials within the theoretical framework used, and conducting verification tests (correspondence tests) on the obtained data regarding their consistency with the facts in the field. Both analyses (falsification test and verification test) are utilized to justify the research findings through legal reasoning, legal argumentation, and legal hermeneutics to address legal issues.(Ibrahim, 2005)

3. Results And Discussion

A. The Application of Police Discretion in Resolving Criminal Acts

Law is a living rule within society that serves to regulate society's life for the better. It exists to bring about changes in society's life to create justice. Society needs law to regulate and rectify existing issues with the aim of achieving justice. There is no agreed definition of law among experts. Society prefers the benefits of law over debating its definition.(Haryanti, 2014)

Law exists as a system of rules that govern society towards a better state with the hope of achieving justice and eliminating disparities. Law enforcement in Indonesia is carried out by the Police, the Prosecutor's Office, and the Judiciary, which have authority according to the law. Law enforcement aims to encompass the values of justice contained within positive legal norms and applied in social, national, and state life.(Sriwidodo, 2020)

Law enforcement is an action to regulate society towards justice based on prevailing norms or rules, so that it can be implemented in social life with the aim of ensuring justice and benefits. Criminal acts are behaviors that contradict the values and norms that are in force and have been ratified by written law. Offenders can be punished according to the Criminal Code or other applicable laws in Indonesia.(Ruhijat et al., 2019)

The number of criminal offenses in Indonesia tended to decrease during the period of 2019-2021 based on the 2022 Criminal Statistics data from the Central Statistics Agency (BPS). North Sumatra Regional Police recorded the highest number of crimes in 2022, followed by Jakarta

Metropolitan Regional Police and East Java Regional Police. Meanwhile, the regions with the lowest number of crimes are West Sulawesi, North Kalimantan, and North Maluku. Central Sulawesi Regional Police ranked 16th with a record of 5,716 criminal offenses in 2022, experiencing a decrease compared to the previous year.

The three most frequently reported types of crimes in Central Sulawesi in 2022 were theft, minor assault, and motor vehicle theft. At the district/city level, the highest crime rates occurred in Palu City, followed by Banggai and Banggai Islands. The high number of criminal offenses in Central Sulawesi correlates with the imprisonment given to the perpetrators. Imprisonment is the most commonly used form of punishment but is considered counterproductive to the efforts of rehabilitating and reintegrating perpetrators of minor crimes and vulnerable groups.

Imprisonment is not more effective in preventing perpetrators from repeating criminal offenses compared to non-imprisonment punishments. Imprisonment actually makes convicts harder to adjust to society after serving their sentence and more prone to repeating criminal offenses. Overcrowding in correctional facilities (prisons and detention centers) has led to the failure of the rehabilitation system's goals. Data in July 2022 showed that the total prison overcrowding reached 201%, with only 4 correctional facilities not experiencing overcrowding.

The application of excessive imprisonment and overcrowding has created counterproductive issues with the aim of penalization since the 1990s. In various countries, overcrowding also leads to the inability to fully meet the basic rights of inmates. Referring to these conditions, the use of imprisonment as the main instrument for punishing criminals needs to be reconsidered. Current trends in various countries indicate the use of alternative punishment models that move away from the use of imprisonment. (Mukmin, 2022)

One alternative model of punishment that can be used is through the discretion of law enforcement officials to take action to continue or stop a case according to their authority. The police have discretionary authority based on Law Number 2 of 2002 concerning the Republic of Indonesia State Police. Police discretion can be used in the application of mediation to resolve criminal cases between perpetrators and victims with the aim of achieving justice and benefit. (Ramadhan, 2021)

In exercising discretion, the police must meet both material and

formal requirements that have been regulated, as well as follow clear procedural steps. Police discretion prioritizes a restorative justice approach by involving perpetrators, victims, families, and relevant parties to jointly achieve a fair resolution. The application of discretion in practice is not something new; it already reflects the institution of consensus deliberation which is part of Indonesia's national philosophy in resolving conflicts in society, even though it may constitute a violation of criminal laws.(Ramadhan, 2021)

In reality, minor cases such as juvenile delinquency, theft, assault, fraud, and rape can be resolved through mediation, with or without involving law enforcement. In many instances of criminal acts, the police officers choose not to prolong the process and encourage both the victim and the perpetrator to settle it amicably.

B. The Police Discretion Can Be Used as the Basis for Resolving Criminal Acts Based on Restorative Justice.

Historically, restorative justice is inspired by "community justice" used in several non-Western cultural societies, particularly indigenous communities. This concept is influenced by ideas of equality and community relationships. Although its inspiration does not originate from Indonesian culture, the patterns of restorative justice are embedded in some indigenous traditions in Indonesia.

Restorative justice is an alternative sanction for crimes that focuses on repairing the harm caused, bringing together the needs of the victim, and holding the offender accountable. Restorative justice employs a balanced approach, focusing on the responsibility of the offender and assisting the victim. Offenders may be required to provide restitution, perform community service, or make changes as part of a court decision.(Wahyu et al., 2022)

Restorative justice emphasizes a balance of attention between the interests of the perpetrator, victim, and the societal impact of resolving criminal cases. In this model, the active roles of the victim and the community are crucial alongside the role of the perpetrator, unlike the current system that neglects the interests of the victim and the community. Face-to-face, informal, and voluntary interactions between the perpetrator and the victim in a safe environment will result in the best outcomes for restorative justice. However, coercive actions may occur, so the process may need to be returned to the formal criminal justice system if coercion takes place.(Flora, 2022)

Restorative justice is not regulated in the Criminal Procedure Code, so it cannot practically rely on the existence of positive law first. Ignoring this concept means disregarding the victims, families, and communities affected by crime. Police, as the gateway to the criminal justice system, play a crucial role in the implementation of restorative justice. As investigators, police deal with the majority of common crimes and rely on community reports.(Ariefianto, 2016)

The shift in investigation model from punitive to restorative represents a cultural change that requires a lengthy process of adaptation. For example, involving the victim in the investigation process demands a shift from closed to open patterns. Dialogue between the perpetrator and the victim is a crucial part of implementing restorative justice. Direct dialogue allows the victim to express their feelings, expectations of having their rights fulfilled, and desires for case resolution. Perpetrators are expected to be awakened to self-correction, acknowledge their mistakes, and accept responsibility. Police discretion as the basis for implementing restorative justice is regulated in Law Number 2 of 2002 concerning the Police and Law Number 8 of 1981 concerning the Criminal Procedure Code. Indonesian National Police investigators are granted the authority to "take other actions" under certain conditions referred to as police discretion.(Sugiarto, 2021)

Based on the research results, the Indonesian National Police investigators in the jurisdiction of Palu City Police and Parigi Moutong District Police have implemented restorative justice in resolving minor offenses with criminal penalties under the Indonesian Criminal Code (KUHP) with a loss value of no more than Rp2,500,000. The Indonesian National Police Chief has issued Circular Letter Number SE/8/VII/2018 regarding the Implementation of Restorative Justice in Criminal Case Settlement as a guideline for investigators. In addition, Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice has also been issued.

The application of restorative justice in the Netherlands began in the 1990s with various civil society initiatives such as mediation and family conferencing. In 2012, the legal basis for restorative justice was incorporated into the Dutch Code of Criminal Procedure. In Australia, restorative justice was first applied to juvenile offenders through the Wagga-Wagga model involving police or schools as facilitators of family conferencing. Currently, there are four models of resolution with a

restorative justice approach in Australia.

In the Philippines, the application of restorative justice began with the Barangay Justice Service System (BJSS) project in 2003 aimed at increasing awareness and individual capacity to handle disputes at the local level. BJSS involves mediation, conciliation, and arbitration. In Canada, the accommodation of restorative justice approaches can be seen in changes to the Criminal Code in 1996 that support community-based restorative sentencing. There are several mechanisms for resolving cases through a restorative justice approach, such as community conferencing and victim-offender mediation programs.

The resolution of criminal offenses through restorative justice in the police begins with notification and offers of settlement outside of the judiciary to the perpetrator, family, and victim. If agreed upon, investigators will set a time and place for a conference. The mediation process outside of court must consider the interests of the victim. Investigators must focus on restoring the victim's losses so that a peaceful agreement can be reached. If successful, the investigators draft a summary of the agreement signed by all parties involved. (Siringo-Ringo et al., 2018)

The police are actively monitoring the implementation of consensus agreements. Investigators cannot suspend an investigation if the agreement has not been implemented, so monitoring continues. Police investigators, in applying restorative justice, must uphold the law and prioritize humanity, considering that the police are the closest institution to the community. If the community feels that justice is served through restorative justice, then it can be utilized because its goal is for the community itself.

C. The Value of Local Wisdom Can Strengthen Discretion in Resolving Criminal Acts Based on Restorative Justice

In Indonesia, police discretion based on a restorative justice approach to resolving criminal cases has been practiced in various traditional communities (indigenous communities). Indigenous communities engage in deliberation to achieve consensus, which is the core value of restorative justice. The concept of restorative justice has actually taken root in the life of Indonesian society, which is the spirit and personality (volkgeist) of the Indonesian nation. (Tambir, 2019)

After Indonesia gained independence, recognition of customary law communities (adat law) has been implicitly stated in the Fourth Paragraph

of the Preamble to the 1945 Constitution. Following amendments, the state acknowledges the existence of customary law, as regulated in Article 18B Paragraph (2) of the 1945 Constitution. The government has made legal breakthroughs to accommodate the concept of restorative justice, albeit still partial. This can be seen through the formation and enforcement of Emergency Law of the Republic of Indonesia Number 1 of 1951, Law of the Republic of Indonesia Number 48 of 2009, and Law of Indonesia Number 6 of 2014.(Sulastriyono, 2014)

The practice of resolving disputes by involving affected parties and the community has actually been widely done in Indonesia, even before the formation of the Indonesian state. The majority of Indonesia's population does not originate from urban areas and is not secular, so the social values emphasized tend to focus on personal relationships.(Chandra, 2023) The resolution of disputes involving affected parties is commonly known as deliberation. Dispute resolution can be conducted through customary courts or individually. The main characteristic of resolving disputes through customary mechanisms is to settle a dispute peacefully to restore the disrupted balance of society.

Revitalizing local wisdom can strengthen the discretion of the police in criminal resolution. Local wisdom can be defined as a local cultural wealth that contains policies of life and a way of life that accommodates policies and wisdom. Despite efforts to pass down local wisdom from generation to generation, there is no guarantee that local wisdom will remain strong in the face of globalization, which offers increasingly pragmatic and consumptive lifestyles. The increasing crime rate every year is clear evidence of disregard for local wisdom.(Marijan, 2014)

In the legal context, the cultural approach in realizing security and order aligns with the sociological jurisprudence principle that good law is one that fits and lives within society. Law enforcement in Indonesia should be grounded in Indonesian context. Discretion is the most appropriate step for the police to take in handling criminal cases, especially minor offenses, particularly those that occur within customary law communities. By exercising discretion, justice can be more easily achieved and can accommodate the values that exist within society.(Koko Roby Yahya, 2023)

One of the programs encouraged and developed by the Aceh Regional Police is the Community Policing Program by strengthening the leadership of community figures. The Aceh Regional Police also developed the "Polisi Seweu Keudee Kupa" program, guided by a Memorandum of

Understanding with the Seven Pillars of Community Policing Plus. In the application of discretion, the police must explore and understand the local wisdom of the communities where they operate, and apply it in the resolution of minor criminal cases. Discretion by the police must be nurtured in the sense of customary resolution, so that law enforcement in Indonesia is in line with the goal of "Justice based on the Belief in One Supreme God".

The role of the Police, which is quite appreciated in applying discretion by accommodating local wisdom, can be seen in the Aceh Regional Police. Essentially, all approaches are based on conscience, which can be felt by understanding local wisdom. The national identity of Indonesia, long before the establishment of the state, must be reinstated in such a way as to align it with the modern legal system for a sense of justice. This means that if justice has been achieved through the reconciliation of parties through the discretion process, then balance has returned to its original position.

The theoretical perspective for legal certainty and the protection of society that resolves their cases through customary courts fulfills the ideological function of national legal development based on the philosophical, socio-cultural, and juridical values of the Indonesian nation. The revitalization of local wisdom itself is a strategy used to revive the traditions and culture of the community so that they can be used as alternatives by the police in resolving criminal acts. The government has accommodated the concept of restorative justice in various regulations.

Through the revitalization of local wisdom, uniformity can be achieved in resolving criminal acts through the application of restorative justice. In Central Sulawesi, there are various cultures and customs used by the community in resolving criminal acts, one of which is the "givu" sanction (customary sanction) held by the Kaili tribe. The mechanism for resolving criminal cases through police discretion based on restorative justice transplanted from local wisdom has long been practiced by indigenous communities in the homeland, only the terms used are different.

4. Conclusion

. The implementation of discretion by the Police in the resolution of criminal acts can be done if it meets the elements of "public interest"

and "urgent circumstances." In addition, police officers must also consider the general authority requirements of the Police, which include adhering to existing norms such as legal norms, ethical norms, religious norms, and norms of decency, as well as upholding human rights. Therefore, the application of police discretion should not be seen as a tool for the personal gain of police officers; thus, its implementation must be based on a strong legal foundation.

Police discretion can serve as the basis for the resolution of criminal acts based on Restorative Justice as regulated in Articles 16 and 18 of Law Number 2 of 2002 concerning the Police. To maximize the application of Restorative Justice in handling criminal cases, the Indonesian National Police subsequently issued Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice (Regulation on Restorative Justice) as a legal basis and guideline in resolving cases based on Restorative Justice.

Local Wisdom values can strengthen discretion in the resolution of criminal acts based on Restorative Justice if the revitalization of local wisdom values in each region is carried out and then used as a reference for resolving criminal acts. For example, in Central Sulawesi Province, the Kaili community is familiar with the givu sanction, which can be used to resolve criminal acts. This is in line with the goal of punishment, namely resolving criminal acts through local wisdom, which is more healing, more resolute, and without any party losing face (an elegant solution).

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