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Regulatory Problematics of Restorative Justice in Addressing Sexual Violence Offenses within Indonesia's Criminal Justice System

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Abstrak

Disharmonisasi regulasi menjadi hambatan dalam penerapan restorative justice di Indonesia, khususnya dalam penanganan tindak pidana kekerasan seksual. Permasalahan ini muncul karena Pasal 5 Peraturan Kepolisian Nomor 8 Tahun 2021 tidak mengecualikan tindak pidana kekerasan seksual dari mekanisme restorative justice, sementara Pasal 21 Undang-Undang Nomor 12 Tahun 2022 secara tegas melarang penyelesaian perkara di luar proses peradilan. Penelitian ini bertujuan untuk menganalisis batasan normatif penerapan restorative justice dalam perkara kekerasan seksual serta mengidentifikasi implikasi disharmonisasi regulasi terhadap kepastian hukum. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan kasus. Hasil penelitian menunjukkan bahwa disharmonisasi tersebut memicu multitafsir, melemahkan kepastian hukum, dan mengganggu koherensi penerapan restorative justice dalam sistem peradilan pidana, oleh karena itu, diperlukan harmonisasi regulasi melalui pembentukan kerangka hukum yang terintegrasi dan berorientasi pada perlindungan korban.

Kata Kunci: Restorative Justice; Kekerasan Seksual; Disharmonisasi

Abstract

Regulatory inconsistencies pose a barrier to the implementation of restorative justice in Indonesia, particularly in the handling of sexual violence cases. This issue arises because Article 5 of Police Regulation No. 8/2021 does not exclude sexual violence crimes from the restorative justice mechanism, while Article 21 of Law No. 12/2022 explicitly prohibits the resolution of cases outside the judicial process. This study aims to analyze the normative limitations of applying restorative justice in sexual violence cases

and to identify the implications of regulatory disharmony on legal certainty. This study employs a normative legal methodology, drawing on legislative, conceptual, and case-based approaches. The results of the study indicate that this regulatory disharmony leads to multiple interpretations, weakens legal certainty, and disrupts the coherence of restorative justice implementation within the criminal justice system; therefore, regulatory harmonization is necessary through the establishment of an integrated legal framework oriented toward victim protection.

Keywords: Restorative Justice; Sexual Violence; Disharmonization

INTRODUCTION

The retributive orientation of the responsibility but also ensures that victims conventional criminal justice system has been receive substantial restoration.³ However, widely criticized for its lack of accountability although restorative justice offers a restorative and human rights protections,¹ a normative framework that places the victim at the centre, concern that resonates with the constitutional it cannot be applied universally to all forms of guarantee under Article 28G of the 1945 criminal acts, as affirmed by CEDAW through Constitution, which safeguards the protection General Recommendation Number 35 on of the person, family, honour, dignity, Gender-Based Violence against Women, property, and sense of security, including section on Prosecution and Punishment (para. protection from threats and degrading 32(b)), which states that no form of violence treatment.² According to John Braithwaite in against women may be mandatorily referred to Restorative Justice and Responsive alternative dispute resolution procedures, Regulation, restorative processes are including mediation and conciliation. meaningful only when the needs, voices, and Previous studies related to this research definitions of restoration provided by the have primarily examined the application of victims themselves serve as the primary focus; restorative justice within the criminal justice thus, restorative justice not only provides system in general. The study by Mochamad offenders with an opportunity to take Sukedi and I Nengah Nuarta affirms that

¹ Abdurrahman Alhakim et al., 'Revitalizing Justice: Empowering Juvenile Sexual Offenders through a Restorative Approach in Indonesia', *Journal of Judicial Review* 25, no. 1 (2023): 18, <https://doi.org/10.37253/jjr.v25i1.7537>.

² Silvia Novitasari et al., 'Pembaharuan Perlindungan Hukum Terhadap Perempuan Korban Kekerasan Seksual Dalam Undang – Undang Nomor 12 Tahun 2022', *Mavisha: Law and Society Journal*, November 2024, 31, <https://doi.org/10.15408/7h9p1y62>.

³ Inbal Peleg-Koriat, 'Ethnic Differences in Support for Restorative Justice in Sexual Abuse Cases: The Role of Offense Severity and Malleability Beliefs', *Violence Against Women*, 9 June 2025, 3, <https://doi.org/10.1177/10778012251347588>.

restorative justice is rooted in the values of of Law Number 12 of 2022 and its deliberation and Indonesian customary legal consequences for the protection of victims' traditions, while the research conducted by right to reparation, thereby offering a novel Zahratul'ain Taufik and Atika Zahra Nirmala contribution that has not been addressed by demonstrates the effectiveness of previous research.

implementing restorative justice in minor The urgency of this study is heightened criminal cases at the East Lombok District in light of findings from prior empirical Prosecutor's Office, in which the restoration of research conducted within the jurisdiction of relations between the perpetrator and the the Ngoro Sectoral Police, Jombang Regency, victim remains possible. Conversely, the during the period of 2023–2024, which findings of Azis Saputra, Dadang Sutrasno, recorded a number of cases of domestic and Widi Setiawan reveal a high level of violence and sexual violence resolved through understanding among police officers regarding restorative justice mechanisms. Referring to Police Regulation Number 8 of 2021 these empirical findings, in 2023 there were 41 (hereinafter referred to as Police Regulation cases of domestic violence (15 of which were Number 8 of 2021), indicating that the resolved through restorative justice) and 6 regulation is closely aligned with police cases of sexual violence (5 of which were enforcement practice. Nevertheless, these resolved through restorative justice). three studies have not examined the juridical Meanwhile, in 2024 there were 25 cases of boundaries and the problems surrounding the domestic violence (5 of which were resolved application of restorative justice in cases of through restorative justice) and 5 cases of sexual violence a category of criminal offense sexual violence (3 of which were resolved that is normatively excluded from non- through restorative justice).⁴ These facts litigation settlement under Law Number 12 of demonstrate the existence of a 2022 (hereinafter referred to as Law Number misinterpretation or expansion of the 12 of 2022)—nor have they analysed its application of restorative justice to encompass implications for substantive justice for victims. serious criminal offenses such as sexual Accordingly, this study seeks to fill that gap by violence, which fundamentally carries the risk providing an analysis of the regulatory of disregarding victims' suffering and disharmony between Article 5 of Police generating the potential for revictimization.⁵ Regulation Number 8 of 2021 and Article 23

⁴ Nurul Aslamiah, 'Penerapan Restorative Justice Terhadap Kasus Kekerasan Seksual Di Desa', *El-Dusturie* 4, no. 1 (2025): 92, <https://doi.org/10.21154/eldusturie.v4i1.11038>.

⁵ Yuni Putri Dewantara and Ika Fransisca, 'Restorative Justice Dalam Penyelesaian Sengketa Pelecehan Seksual Cyber', *Jurnal Hukum Mimbar Justitia* 10, no. 2 (2024): 226, <https://doi.org/10.35194/jhmj.v10i2.4679>.

This study focuses on the analysis of approach to deepen the understanding regulatory disharmonization concerning the underlying the limitation of the application of application of restorative justice in the restorative justice to sexual violence offenses, handling of sexual violence offenses between and a case-based approach to examine the Police Regulation Number 8 of 2021 and Law practical implementation of restorative justice Number 12 of 2022. The central issue within society. The analysis of legal materials examined is the absence of an explicit is conducted through two principal techniques, exclusion of sexual violence offenses in namely descriptive and analytical analysis of Article 5 of Police Regulation Number 8 of primary, secondary, and tertiary legal 2021, which creates interpretative ambiguity materials. The primary legal materials consist and potentially conflicts with the prohibition of of Police Regulation Number 8 of 2021, Law case settlement outside the judicial process as Number 12 of 2022, Supreme Court stipulated in Article 23 of Law Number 12 of Regulation Number 1 of 2024, and Regulation 2022. The study further examines the of the Attorney General of the Republic of implications of such disharmonization for the Indonesia Number 15 of 2020. The secondary guarantee of substantive justice for victims, legal materials include scholarly articles particularly in ensuring comprehensive published in accredited law journals and reparation, assistance, and the fulfilment of literature addressing restorative justice and the victims' rights as mandated by Law Number protection of victims of sexual violence. 12 of 2022. Accordingly, this research Meanwhile, the tertiary legal materials normatively evaluates the limits of the encompass international conventions that application of restorative justice in cases of frequently serve as normative foundations for sexual violence and assesses whether the non- the formulation of legislation in Indonesia.

penal restorative justice-based policy This study aims to identify the existence regulated under Police Regulation Number 8 of regulatory disharmonization that has the of 2021 is consistent with, or instead potential to result in an expansion of the contradicts, the imperative mandate of victim application of restorative justice to sexual protection under Law Number 12 of 2022. violence offenses and to analyse the normative

This study constitutes normative limitations governing the application of juridical research employing several restorative justice mechanisms in the handling approaches, including a statutory approach to of sexual violence offenses within the examine the regulatory disharmonization Indonesian criminal justice system by between Police Regulation Number 8 of 2021 examining the conformity and consistency of and Law Number 12 of 2022, a conceptual the regulatory framework between Police

Regulation Number 8 of 2021 and Law No. 12 of 2022. This study further aims to specifically assess whether the application of restorative justice in cases of sexual violence is aligned with the principle of substantive justice for victims, particularly in the fulfilment of the rights to protection, reparation, and guarantees of freedom from revictimization. Accordingly, this study is expected to develop a normative analytical examination concerning the limits of legitimacy of non-penal restorative justice-based policies in the handling of sexual violence offenses, as well as to formulate legal arguments affirming the importance of victim protection as the primary orientation in the regulation and enforcement of law in Indonesia.

RESULT AND DISCUSSION

Regulatory Disharmonization of Restorative Justice under Police Regulation Number 8 of 2021 and Law Number 12 of 2022

The restoration of harm and social relationships damaged by crime constitutes the essence of restorative justice, rather than merely the imposition of punishment upon the offender.⁶ Restorative justice operates as a complementary mechanism to the formal legal system, as it seeks to generate a more effective, participatory, and humane form of justice

through the active involvement of both the community and law enforcement authorities.

The United Nations Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters likewise define restorative justice as a complementary mechanism, rather than as a substitute for the existing criminal justice system. The principles further recognize that restorative justice may be implemented at any stage of the criminal justice process within national legal systems. Accordingly, its application is not confined to the pre-prosecution (pre-charge) stage, such as diversion, but may extend to the prosecution (post-charge) stage, adjudication, and the execution of sentences, including as an alternative to imprisonment. Nevertheless, within the Indonesian criminal justice system, the most decisive locus of restorative justice practice lies at the pre-prosecution stage, namely the investigation phase, where the discretionary authority of law enforcement officials significantly determines the trajectory of case handling. This discretionary authority, as regulated under Police Regulation Number 8 of 2021, positions the investigation stage as the principal locus for the application of restorative justice, including in cases of sexual violence offenses.

The principal principles underlying restorative justice include: (1) the full

⁶ Nur Rochaeti et al., 'A Restorative Justice System in Indonesia: A Close View from the Indigenous Peoples' Practices', *Sriwijaya Law Review*, 27 January 2023, 89–90, <https://doi.org/10.28946/slrev.Vol7.Iss1.1919.pp87-104>.

participation of all relevant stakeholders, for its application.¹¹ Article 1 point (6) of Law including the victim, the offender, and their Number 11 of 2012 defines restorative justice respective families and communities;⁷ (2) a as a mechanism for resolving criminal cases contextualized understanding of the offense through the involvement of the perpetrator, the within its broader social framework;⁸ (3) a victim, their respective families, and other forward-oriented approach emphasizing relevant stakeholders in order to collectively preventive and solution-based outcomes; and reach a fair resolution, with an emphasis on (4) procedural flexibility that prioritizes restoring the original condition rather than creativity in the resolution process. pursuing retributive punishment.¹² This statute Historically, the creative orientation of represents a progressive shift in Indonesia's restorative justice can be traced to Albert juvenile penal policy, shifting from a Eglash, who in the 1950s conceptualized retributive framework toward a restorative restorative justice as an alternative model of model grounded in human dignity, creative sentencing.⁹ participatory resolution, and the primacy of

The restorative paradigm was recovery. progressively adopted into the Indonesian In the same year, a Joint Decree of criminal justice system and has since Understanding was formalized between the developed in a structurally significant Chief Justice of the Supreme Court, the manner.¹⁰ Within the national legal framework, Minister of Law and Human Rights, the normative recognition of restorative justice is Attorney General, and the Chief of the explicitly articulated in Article 1 point 6 of Indonesian National Police concerning the Law Number 11 of 2012 concerning the Adjustment of the Threshold for Minor Juvenile Criminal Justice System, which Offenses and Fines, the Expedited constitutes the earliest formal statutory basis Examination Procedure, and the

⁷ Angki Sukma, *Penerapan Keadilan Restoratif Pada Tindak Pidana yang Tidak Memenuhi Syarat Diversi di Indonesia*, 1, no. 8 (2024): 66, <https://doi.org/10.5281/ZENODO.10845080>.

⁸ Ni Kadek Putri Sita Rahayu and Gunardi Lie, 'Tinjauan Filosofis Dan Yuridis Terhadap Keadilan Restoratif Dalam Sistem Peradilan Pidana Anak', *Jurnal Yustitia* 21, no. 2 (2025): 32, <https://doi.org/10.62279/yustitia.v21i2.1675>.

⁹ Albert Eglash, 'Creative Restitution. A Broader Meaning for an Old Term', *The Journal of Criminal Law, Criminology, and Police Science* 48, no. 6 (1958): 620, <https://doi.org/10.2307/1140258>.

¹⁰ Cecilia Rudolf Valentino, 'Restorative Justice as an Alternative in the Indonesian Criminal Justice System', *Journal of Progressive Law and Legal Studies* 3, no. 03 (2025): 350, <https://doi.org/10.59653/jplls.v3i03.1864>.

¹¹ Geney Srikusuma Dewi, 'Penetapan Pengadilan Sebagai Muara Dalam Penyelesaian Perkara Pidana Di Luar Pengadilan Yang Menggunakan Pendekatan Restorative Justice', *Jurnal Yustitia* 17, no. 01 (2023): 57–58, <https://doi.org/10.62279/yustitia.v17i01.1047>.

¹² Safira Gustika Maharian, 'Restorative Justice in the Reform of the Indonesian Criminal System (Case Study of Violence Against Children in the Selebar Police Sector Area, Bengkulu City)', *Journal of Law, Politic and Humanities* 4, no. 5 (2024): 1870, <https://doi.org/10.38035/jlph.v4i5.504>.

Implementation of Restorative Justice, signed on 17 October 2012. This inter-institutional instrument expressly incorporates restorative justice within the procedural handling of minor criminal offenses, as reflected in Article 1 point 2 of Joint Decree Number 131/KMA/SKB/X/2012, which normatively defines restorative justice as a case-resolution mechanism conducted at the investigative stage or at the initial phase of trial proceedings, involving the offender, the victim, their respective families, and relevant community representatives, with the objective of achieving a fair settlement predicated upon restoration to the status quo ante.

The institutionalization of this Joint Decree constitutes a significant structural development in the construction of a coordinated enforcement framework among the police, the prosecution service, and the judiciary. It represents the earliest formal articulation of inter-agency harmonization for the implementation of restorative justice beyond the juvenile justice regime. Through this coordinated regulatory architecture, restorative justice acquired strengthened institutional legitimacy, thereby consolidating its position within the broader trajectory of Indonesian criminal justice reform.

Building upon the Joint Decree, the Indonesian National Police strengthened the normative foundation for the implementation of restorative justice through Chief of Police Circular Letter Number SE/8/VII/2018

concerning the Implementation of Restorative Justice in the Settlement of Criminal Cases, issued on 27 July 2018. The circular provides clarification regarding the scope and application of restorative justice within investigative practice. The circular expressly states that restorative justice must not be construed merely as a mechanism for amicable case termination. Instead, it is framed as a process aimed at ensuring justice for all parties involved in a criminal case through the active participation of the victim, the offender, the local community, and investigators acting as facilitators in the resolution process.

Furthermore, the development of restorative justice was marked by the issuance of Chief of Police Regulation Number 6 of 2019 concerning Criminal Investigation, issued on 4 October 2019. This regulation constitutes a more formal normative consolidation of restorative justice within the procedural framework of criminal investigation. Restorative justice is expressly defined in Article 1 point 27 of the Regulation as the settlement of criminal cases involving the offender, the victim and/or their families, as well as other relevant parties, with the objective of achieving justice for all parties concerned.

The issuance of this regulation marked an important phase in the integration of restorative justice principles at the investigative stage. Through this Chief of Police Regulation, the Indonesian National

Police not only formally acknowledged the existence of case-resolution mechanisms oriented toward restoration but also provided a clear normative basis for their implementation within law enforcement practice. With such legal grounding, investigators are vested with the authority and legitimacy to resolve cases through restorative justice mechanisms at the investigative stage. However, conceptual inconsistencies exist, particularly in the integration further reinforces substantive differences between Chief of justice by promoting settlements that are equitable, proportionate, and oriented toward the restoration of social relationships among the parties involved.

Subsequent to Article 12 of Chief of Police Regulation Number 6 of 2019, which expanded the application of restorative justice at the investigative stage, the Indonesian National Police further updated its legal framework through Chief of Police Regulation Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice (Police Regulation Number 8 of 2021), issued on 19 August 2021.¹³ This regulation defines restorative justice in Article 1 point 3, stating that it constitutes the settlement of criminal offenses through the involvement of the offender, the victim, their respective families, community leaders, religious leaders, customary authorities, or other relevant stakeholders, jointly seeking a fair resolution and restoration that must be strictly guaranteed and fulfilled by the State. Accordingly, any

through reconciliation, with an emphasis on restoring the situation to the status quo ante. This regulation essentially affirms the recognition of alternative case-resolution procedures outside the criminal justice process through restorative justice mechanisms at the investigative stage. However, conceptual inconsistencies exist, particularly in the substantive differences between Chief of Police Regulation Number 8 of 2021 and Chief of Police Circular Letter Number SE/8/VII/2018. While Police Regulation Number 8 of 2021, as a refinement of Circular Letter SE/8/VII/2018, tends to prioritize reconciliation as the primary outcome of restorative justice implementation, the Indonesian Circular Letter explicitly asserts that restorative justice should not be interpreted merely as a mechanism for amicable case closure. These regulatory inconsistencies indicate that the application of restorative justice in Indonesia continues to face conceptual challenges, particularly in balancing “case resolution” with “restoration of social relationships”.

¹³ Dewa Putu Hendra Widiatmika, ‘Penerapan Perpol Nomor 8 Tahun 2021 Tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif Di Direktorat Reserse Kriminal Umum Polda Bali’, *IJOLARES: Indonesian Journal of Law Research* 1, no. 1 (2023): 2, <https://doi.org/10.60153/ijolares.v1i1.1>.

mechanism for case resolution must not the Republic of Indonesia, and the Regulation compromise these standards of management, of the Indonesian National Police. protection, and restoration. In this regard, the Nevertheless, stringent limitations are imposed orientation of Police Regulation Number 8 of on the scope of restorative justice, particularly 2021, which appears to prioritize the under the Decree of the Director General of the reconciliation process as a measure of General Courts of the Supreme Court of the restorative justice effectiveness, raises critical Republic of Indonesia Number questions concerning the conformity of such 1691/DJU/SK/PS.00/12/2020. The Decree an approach with the more stringent protection expressly provides that criminal cases eligible mandate codified in Law Number 12 of 2022. for resolution through restorative justice are This regulatory discrepancy highlights the confined to minor offenses as stipulated under significance of a thorough analysis of the Articles 364, 373, 379, 384, 407, and 482 of disharmony between these instruments, the Criminal Code, provided that the material particularly in defining the normative loss does not exceed IDR 2,500,000. boundaries for the application of restorative Accordingly, the scope of criminal cases justice to sexual violence cases. Moreover, it eligible for resolution through restorative provides a substantial analytical framework to justice is explicitly restricted to minor assess whether the expanded interpretation of offenses.

restorative justice within Police Regulation Number 8 of 2021 coheres with the imperative Regulation of the Supreme Court of the of victim protection codified in Law Number Republic of Indonesia Number 1 of 2024 12 of 2022. concerning Guidelines for Adjudicating

Normative Boundaries of Restorative Criminal Cases Based on Restorative Justice, Justice under Law Number 22 of 2022 on particularly Article 6 Section (1) point a, which Sexual Violence Offenses provides that restorative justice may only be

The application of restorative justice applied where the offense constitutes a minor within the Indonesian criminal justice system crime or where the victim's loss does not is normatively conceived as a mechanism to exceed IDR 2,500,000 (two million five recalibrate the relationship between victims, hundred thousand rupiah) or the applicable offenders, and society, as reflected in various provincial minimum wage. This provision sectoral regulatory instruments, including the further reinforces the normative position that Prosecutor's Regulation of the Republic of restorative justice is designed for criminal Indonesia, the Decree of the Director General offenses of limited severity and relatively low of the General Courts of the Supreme Court of social impact. In this regulatory context, the

application of restorative justice to sexual framework that explicitly regulates the violence offenses classified as extraordinary boundaries of restorative justice in relation to crimes under Law Number 12 of 2022 would sexual violence offenses. In this context, Law extends beyond the restrictive parameters Number 12 of 2022 represents a more consistently established by the Supreme Court definitive orientation in criminal policy. through these regulatory instruments. Article 23 of Law Number 12 of 2022

The consistency of these limitations is expressly prohibits the resolution of sexual further reflected in Article 5 Section (3) of the violence offenses through mechanisms of Prosecutor's Regulation of the Republic of settlement outside the formal criminal justice Indonesia Number 15 of 2020 (hereinafter process.

referred to as Prosecutor's Regulation Number The norm expressly establishes that all 15 of 2020) on the Termination of Prosecution forms of resolution outside the formal judicial Based on Restorative Justice, which provides process, including restorative justice that, for criminal offenses committed against a mechanisms, are excluded as a matter of law person, bodily integrity, life, or personal from the adjudication of sexual violence liberty, the requirement set forth in Section (1) offenses, irrespective of any agreement point c may be exempted. This provision between the perpetrator and the victim. This indicates that cases involving violations of restriction is predicated upon juridical fundamental rights, particularly those affecting considerations as well as victimological physical integrity or individual freedom, fall analysis, which acknowledge that the outside the ordinary parameters of restorative application of restorative justice in cases of justice. Accordingly, both prosecutorial sexual violence entails a substantial risk of regulations and Supreme Court policies retraumatization and secondary consistently affirm that the application of victimization.¹⁴ Within this framework, the restorative justice is subject to substantive prohibition serves as a structural safeguard that limitations and cannot be extended universally preserves the integrity of the recovery-oriented to all categories of criminal offenses. principle and upholds the victim's dignity,

The limitations on the application of security, and fundamental rights, particularly restorative justice under Prosecutor's in contexts marked by asymmetrical power Regulation Number 15 of 2020 reflect the relations.¹⁵ legislative necessity of establishing a statutory

¹⁴ Dewantara and Fransisca, 'Restorative Justice Dalam Penyelesaian Sengketa Pelecehan Seksual Cyber', 226.

¹⁵ Widya Ari Dewi et al., 'Legal Protection for Victims in The Resolution of Criminal Cases Through Restorative Justice Mechanisms', *Jurnal Daulat Hukum* 8, no. 4 (2026): 1071, <https://doi.org/10.30659/jdh.v8i4.50835>.

The Normative Construction of the Police Regulation Number 8 of 2021 within Investigator's Authority within Restorative the listed exclusions.

Justice Mechanisms

Law Number 12 of 2022 signifies a inconsistency, particularly when examined normative reorientation within Indonesian through the principle of *lex posterior derogat* criminal law policy through the *legi priori*, which mandates the application of institutionalization of a victim-centred the more recent legal norm insofar as it paradigm. This approach is premised upon the regulates the same material.¹⁷ Accordingly, the recognition that sexual violence generates provision of Police Regulation Number 8 of profound physical, psychological, and social 2021 that permits the application of restorative harm, such that its resolution cannot be justice cannot be sustained to the extent that it reduced to the restoration of relations between contradicts the explicit prohibition contained perpetrator and victim, but instead requires in Article 23 of Law Number 12 of 2022 as the strong institutional capacity and community later-enacted regulation.

support to ensure its effective Within law enforcement practice, Police implementation.¹⁶ Regulation Number 8 of 2021 functions as the

In this context, the explicit prohibition primary operational reference for articulated in Article 23 of Law Number 12 of investigators, while institutionally positioning 2022 gives rise to regulatory disharmony with police officers to participate in restorative Police Regulation Number 8 of 2021, processes as community representatives.¹⁸ This particularly Article 5-point f, which specifies institutional centrality is evidenced by several categories of offenses excluded from monitoring findings published by the National the scope of restorative justice, including Commission on Violence against Women terrorism, offenses against state security, (Komnas Perempuan) across nine police corruption, and offenses against life. Article 5- jurisdictions, which reveal that 97% of point f does not expressly incorporate sexual respondents (126 out of 130) had previously violence offenses as regulated under Law handled cases employing a restorative justice Number 12 of 2022 enacted subsequently to approach. This extensive application is

¹⁶ Nabila Maulidiya et al., 'Eksplorasi Pendekatan Restorative Justice sebagai Mekanisme Pengurangan Angka Residivisme: Analisis Kritis terhadap Efektivitas Teori Relatif dalam Sistem Peradilan Pidana Indonesia', *Progressive Law Review* 7, no. 1 (2025): 28, <https://doi.org/10.36448/prolev.v7i1.255>.

¹⁷ Mesa Indra Naiborhu and Wagiman Wagiman, 'The Fundamental Position Of Lex Posterior Derogat Legi Priori in the Conflict of Norms Against the Rights of Holders of The Right to Justice', *Jurnal Indonesia Sosial Teknologi* 5, no. 2 (2024): 663, <https://doi.org/10.59141/jist.v5i2.906>.

¹⁸ Yu-Wei Liu, 'Assessing the Feasibility of Police Participation in Restorative Justice in Taiwan: A Restorative Policing Perspective', *International Journal of Law and Society* 9, no. 1 (2026): 96, <https://doi.org/10.11648/j.ijls.20260901.18>.

accompanied by a correspondingly high procedural application of Chief of Police degree of normative awareness, as 94% of Circular Letter Number 8/VII/2018 and Police respondents (122 out of 130) acknowledged Regulation Number 8 of 2021 as primary familiarity with internal regulatory normative instruments. Such initiatives have frameworks governing restorative justice, not been accompanied by comprehensive and including Police Chief Circular Letter Number specialized training addressing the substantive 8 of 2018 and Police Regulation Number 8 of foundations of restorative justice itself. 2021.¹⁹ These findings indicate that the internal Subsequent monitoring undertaken by regulatory framework has undergone Komnas Perempuan further demonstrates that substantive institutionalization within routine 46% of the 130 respondents reported acquiring policing practices, accompanied by a relatively knowledge of restorative justice through uniform distribution of understanding across socialization activities, 27% through western, central, and eastern regions of formalized training programs, and the Indonesia. This pattern is further substantiated remainder through circular instruments or by empirical research conducted by Azis autonomous learning.²¹

Saputra, Dadang Sutrasno, and Widi Setiawan, This empirical reality reflects that which demonstrates that the level of educational and dissemination processes institutional comprehension of Police within the police institution remain Regulation Number 8 of 2021 approached predominantly procedural and structurally 100% across six Regional Police Offices oriented. In principle, the effective examined in the study.²⁰ implementation of restorative justice requires

However, empirical findings derived adequate institutional resources, specialized from interviews conducted by Komnas training, and sustained institutional support, as Perempuan reveal that institutional the approach is intended to promote a more dissemination within the police apparatus has holistic form of justice that prioritizes been predominantly confined to internal recovery, reconciliation, and the meaningful socialization sessions emphasizing the participation of all parties involved.²²

¹⁹ Komisi Nasional Anti Kekerasan Terhadap Perempuan, 'Transformasi yang tertunda: Temuan Pemantauan Berperspektif Keadilan Gender pada Praktik Keadilan Restoratif di 9 Provinsi 23 Kota/Kabupaten', accessed 17 March 2026, <https://komnasperempuan.go.id/pengembangan-pengetahuan-detail/transformasi-yang-tertunda-temuan-pemantauan-berperspektif-keadilan-gender-pada-praktik-keadilan-restoratif-di-9-provinsi-23-kota-kabupaten>.

²⁰ Azis Saputra, 'Penerapan Keadilan Restoratif Dalam Penanganan Tindak Pidana Guna Mewujudkan Kemanfaatan Dan Keadilan Masyarakat', *Jurnal Litbang Polri* 26, no. 3 (2023): 162, <https://doi.org/10.46976/litbangpolri.v26i3.225>.

²¹ Komisi Nasional Anti Kekerasan Terhadap Perempuan, 'Transformasi yang tertunda'.

²² Suud Sarim Karimullah, 'From Punishment to Healing: The Transformative Power of Restorative Justice', *ResearchGate* 29, no. 4 (2026): 681, <https://doi.org/10.47268/sasi.v29i4.1688>.

Consequently, the institutionalization of restorative justice within the police environment appears to operate at an informational and administrative level, without yet attaining a sufficiently developed conceptual internalization consistent with its transformative normative aspirations. The formulation of restorative justice is in a subjective manner, as it fails to prescribe objective indicators or ascertainable normative parameters. Consequently, the determination of the applicability of restorative justice is, in practice, largely vested in the professional discretion of investigators, grounded in the concrete circumstances of each case, without explicit normative restrictions concerning categories of criminal offenses that are substantively incompatible with resolution through restorative justice mechanisms.

The limited conceptual understanding among police officers regarding the substantive foundations of restorative justice frequently results in misinterpretations in its practical application. As revealed in interviews conducted by Komnas Perempuan and documented in its monitoring report, several police officers continue to equate restorative justice with Alternative Dispute Resolution (ADR) or diversion in juvenile cases, without adequately comprehending the fundamental distinctions in principles, objectives, and legal foundations that differentiate these mechanisms.²³ This constrained understanding indicates that the regulatory framework governing restorative justice under Police Regulation Number 8 of 2021 has yet to articulate clear conceptual boundaries distinguishing restorative justice from ADR and diversion in juvenile proceedings. The absence of determinate normative standards thus creates the potential for the extension of restorative justice to cases that, from a juridical and doctrinal standpoint, ought to be expressly excluded, including offenses of sexual violence. This empirical reality indicates that the principal problem lies not merely at the level of implementation, but within the normative configuration of the policy itself, which has yet to provide a coherent, systematically articulated, and conceptually standardized framework for the operationalization of restorative justice. Hierarchically construed, the resolution of sexual violence cases through restorative justice manifests a form of vertical normative disharmony between Police Regulation Number 8 of 2021 as a subordinate implementing regulation and Law Number 12 of 2022 as a superior statutory instrument that

Furthermore, this condition is compounded by Article 5 of Police Regulation Number 8 of 2021, which regulates the material requirements for the implementation of restorative justice. The provision is

²³ Komisi Nasional Anti Kekerasan Terhadap Perempuan, 'Transformasi yang tertunda'.

limits and defines the permissible scope of supervision and coordination mechanisms such implementation. This situation may be designed to ensure the consistent application of regarded as inconsistent with the principle of restorative justice principles. When *lex superior derogat legi inferiori*, the institutional practice prioritizes Police principle that higher legal norms prevail over Regulation Number 8 of 2021 without lower-level regulations.²⁴ Consequently, this sufficient attention to the exclusions expressly condition creates a doctrinal and institutional stipulated in Law Number 12 of 2022, the obligation for police authorities to consistently substance of justice particularly its victim-align their interpretative and operational oriented character risks being reduced to practices with Law Number 12 of 2022 as the considerations of administrative efficiency. higher normative authority. The juridical implications extend beyond a

Within this normative context, Police mere contravention of the principle governing Regulation Number 8 of 2021 operates not the hierarchy of laws and regulations; they also merely as a procedural directive, but as a implicate a deterioration in the substantive normative and epistemic construct that shapes conception of justice within the criminal law the institutional rationality of police officers in system. In other words, the divergence in the administration of criminal justice. The orientation between Police Regulation regulation embodies a particular paradigm of Number 8 of 2021 and Law Number 12 of dispute resolution that, if not critically 2022 reveals the existence of an underlying contextualized within the broader statutory ideological disjunction within the law hierarchy, risks displacing the restrictive enforcement system itself.

parameters expressly articulated in superior Upon careful consideration of the statutes. In the absence of a comprehensive and various instances of erroneous legal hierarchically grounded understanding of the application, it may be inferred that the explicit limitations governing the application disharmony between Police Regulation of restorative justice, cases of sexual violence Number 8 of 2021 and Law Number 12 of may continue to be resolved through 2022 does not merely signify a formal defect restorative mechanisms even after the in the hierarchy or technique of legislative enactment of Law Number 12 of 2022. drafting. More profoundly, it reflects a

Furthermore, this phenomenon indicates structural deficiency in incorporating a victim-structural weaknesses in inter-institutional oriented paradigm within the institutional

²⁴ Sri Warjiyati et al., 'Benturan Norma dalam Implementasi Asas Lex Superior Derogate Legi Inferiori pada Surat Edaran dan Undang-Undang', *Reformasi Hukum* 28, no. 3 (2024): 239, <https://doi.org/doi.org/10.46257/jrh.v28i3.732>.

framework of Indonesia's criminal justice system. Although, at the normative level, Indonesia has demonstrated a commitment to the implementation of restorative justice through various institutional regulations, the substantive regulatory framework remains sectoral in character and has yet to be integrated into a comprehensive and coherent conceptual structure.

Based on the preceding normative analysis, the disharmony between procedural and substantive regulations generates not only normative inconsistencies but also direct implications for the realization of substantive justice for victims of sexual violence. This condition indicates that restorative justice has not yet functioned as a juridical approach genuinely oriented toward victim recovery and

the restoration of social relations. Accordingly, restorative justice cannot be indiscriminately applied to all categories of criminal offenses without considering moral dimensions, social contexts, and, most importantly, the rights and interests of victims. Therefore, comprehensive legal harmonization and clear juridical boundaries are necessary to prevent its application from deviating from the objectives of justice it seeks to uphold.

The Implications of Restorative Justice Application to Sexual Violence Offenses within the Framework of Substantive Justice for Victims

The disharmony between Police Regulation Number 8 of 2021 and Law

Number 12 of 2022 exemplifies a structural limitation in Indonesia's ongoing transition toward a criminal justice system oriented toward substantive justice. Whereas Police Regulation Number 8 of 2021 emphasizes the extrajudicial resolution of criminal cases as a mechanism of procedural efficiency through restorative justice, Law Number 12 of 2022 prioritizes the protection of victims and the restoration of their rights by explicitly precluding the application of restorative justice mechanisms in sexual violence offenses. This divergence in normative orientation highlights the incomplete policy alignment among law enforcement institutions, particularly in the integration of newly established legal standards enshrined in Law Number 12 of 2022.

Normatively, the weakness of policy alignment between sectoral police regulations and national criminal policy following the enactment of Law Number 12 of 2022 is evidenced by Police Regulation Number 8 of 2021, which permits the application of restorative justice across various criminal offenses without establishing explicit limitations concerning sexual violence. The absence of definitive normative parameters generates legal uncertainty and allows for interpretive discretion at the level of investigator level, which, in practice, may result in the employment of non-litigation

resolution mechanisms in cases that ought to be adjudicated through formal judicial

procedures. This situation reflects a deficiency (approximately 57%) expressed dissatisfaction in normative coordination among law with the procedures administered by law enforcement policies, as the practices enforcement authorities.²⁶ This dissatisfaction implemented are in direct contravention of was primarily attributed to several critical Article 23 of Law Number 12 of 2022, which factors: (1) the process did not provide victims explicitly prohibits extrajudicial reconciliation with meaningful participatory opportunities, in sexual violence cases. The misalignment of despite the restorative justice principle implementation guidelines expands recognizing victims' right to participate (to be institutional discretion among law included and to have a voice); (2) victims enforcement officers in the absence of a experienced marginalization and a sense of uniform and binding standard of victim being cornered; (3) perpetrators often protection, thereby rendering the application of dominated the determination of settlement restorative justice susceptible to deviation outcomes, which were deemed insufficient to from the principles of victim-centred justice generate a deterrent effect;²⁷ and (4) the and increasing the risk of revictimization, absence of adequate psychological and legal which ultimately reflects a deviation from the support, thereby undermining the victims' fundamental concept of victim protection as a recovery and rehabilitation.²⁸

mechanism intended to ensure legal guarantees From a socio-cultural perspective, in-depth interviews conducted by National and compensation for those who have suffered harm as victims of crime.²⁵ Commission on Violence Against Women

Monitoring findings published in 2023 further revealed that female victims frequently by Komnas Perempuan indicate that the experience structural pressures to accept resolution of sexual violence cases through reconciliation processes in order to preserve restorative justice frequently falls short of family honour or avoid social stigma, thereby upholding the principles of victim-centred limiting meaningful participatory justice. Among the 84 victims interviewed by opportunities for the victims. In several cases Komnas Perempuan across three primary within rural areas, restorative justice monitoring regions, 48 respondents proceedings were conducted without the direct

²⁵ M. Eza Helyatha Begouvic et al., 'Penyelesaian Perkara Tindak Pidana Persetubuhan Terhadap Anak Yang Dilakukan Anak Menggunakan Pendekatan Berdasarkan Keadilan Restoratif', *SOL JUSTICIA* 7, no. 2 (2024): 8, <https://doi.org/10.54816/sj.v7i2.937>.

²⁶ Komisi Nasional Anti Kekerasan Terhadap Perempuan, 'Transformasi yang tertunda'.

²⁷ Mochamad Sukedi and I. Nengah Nuarta, 'Keadilan Restoratif Sebagai Upaya Penyelesaian Tindak Pidana Dalam Sistem Hukum Di Indonesia', *Jurnal Preferensi Hukum* 5, no. 2 (2024): 225.

²⁸ Thomas Procter-Legg et al., 'Restorative Justice and Social Justice: An International Perspective', *Contemporary Justice Review* 27, nos 2–3 (2024): 221, <https://doi.org/10.1080/10282580.2024.2414953>.

presence of the victims. The process was sometimes delegated solely to community leaders or male family members, effectively excluding victims from decision-making.²⁹

Furthermore, Komnas Perempuan observed that victims subjected to restorative justice mechanisms were exposed to an elevated risk of revictimization relative to those whose cases were processed through formal judicial proceedings. Individuals participating in restorative justice reported sustained psychological distress, manifesting as guilt, anxiety, and social marginalization. In contrast, victims whose cases advanced through the formal court system demonstrated comparatively greater levels of psychological acceptance and recovery, which can be attributed to the provision of legal representation and formal recognition of their suffering. Collectively, these findings reinforce the proposition that the

victims (approximately 66%) reported no meaningful recovery following the process. The recovery offered was often limited to formal or administrative measures, such as written apologies, financial compensation, or the signing of settlement agreements, rather than constituting genuine, substantive recovery.³⁰ Such applications of restorative justice that disregard the comprehensive nature of recovery are inconsistent with Article 70 Section (1) point a of Law Number 12 of 2022, which prescribes five interrelated and progressive forms of victim recovery: medical rehabilitation, mental and social rehabilitation, social empowerment, restitution and/or compensation, and social reintegration.³¹ These recovery measures are not merely procedural services but are explicitly oriented toward the holistic and long-term restoration of the vulnerabilities experienced by sexual violence victims.

implementation of restorative justice absent a clearly delineated legal framework grounded in victim-protection principles may amplify social harm and compromise victims' confidence in the criminal justice system.

In practice, the Komnas Perempuan documented that, among 68 cases resolved through restorative justice mechanisms, 45

This approach aligns with broader victim-protection mandates outlined in Article 5 Section (1) of Law Number 31 of 2014, which guarantees witnesses and victims the right to personal security protection, participation in determining protection measures, and the ability to provide testimony

²⁹ Komisi Nasional Anti Kekerasan Terhadap Perempuan, 'Transformasi yang tertunda'.

³⁰ Komisi Nasional Anti Kekerasan Terhadap Perempuan, 'Transformasi yang tertunda'.

³¹ Hasanudin Muhammad, 'Implikasi Yuridis Pengaturan Hak Korban Tindak Pidana Kekerasan Seksual Dalam Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual', *ResearchGate* (Jurnal Surya Kencana Dua Dinamika Masalah Hukum dan Keadilan) 9, no. 1 (n.d.): 6–10, <https://doi.org/10.32493/SKD.v9i1.y2022.22495>.

free from coercion.³² In addition, Article 6 not possess the instruments, institutional Section (1) of Law Number 31 of 2014 structures, or state obligations necessary to stipulates that sexual violence victims are fulfil the recovery framework prescribed in entitled to medical assistance and psychosocial Article 70 Section (1) of Law Number 12 of and psychological rehabilitation as a non- 2022.

negotiable obligation of the state. Taken Law Number 12 of 2022, which together, these regulations demonstrate that positions victim recovery as the central focus recovery for sexual violence victims cannot be in addressing sexual violence cases, aligns reduced to mere “settlement agreements” or closely with international standards outlined in administrative assurances, which often the Declaration of Basic Principles of Justice constitute the practical implementation of for Victims of Crime and Abuse of Power. restorative justice. Recovery under Law Paragraph 1 of the Declaration defines victims Number 12 of 2022 requires professionally as persons who have suffered physical, guided procedures involving medical psychological, emotional, economic, or personnel, psychologists, trauma counsellors, fundamental rights violations resulting from a social workers, and formal legal mechanisms criminal act. The Declaration emphasizes that that guarantee safety, confidentiality, and victims must be treated with compassion and long-term restoration. Such recovery standards respect for their inherent dignity (Paragraph 4) exceed the capacity of restorative justice and are entitled to prompt and effective access mechanisms as currently practiced, which to justice and reparation mechanisms.³⁴ A typically rely on informal negotiations, substantive conception of victim-centred mediation, or facilitation by law enforcement justice requires that case resolution genuinely institutions lacking the mandate or competence addresses moral harm, rectifies power to provide recovery as a form of substantive imbalances, and restores the dignity of those justice for victims under Law Number 12 of harmed.³⁵ Moreover, substantive justice 2022.³³ Accordingly, from a normative mandates that sexual violence cases be perspective, restorative justice mechanisms do resolved in a manner that fosters a safe

³² Kadimuddin Baehaki and Trisno R. Hadis, ‘Perlindungan Hukum Terhadap Saksi Dan Korban Dalam Sistem Peradilan Pidana Indonesia: Legal Protection of Witnesses and Victims in Indonesia’s Criminal Justice System’, *Jurnal Media Hukum* 11, no. 1 (2023): 57, <https://doi.org/10.59414/jmh.v11i1.451>.

³³ Dian Ekawaty Ismail et al., ‘The Concept of Revitalizing Traditional Institutions in the Criminal Law System to Realize Restorative Justice’, *Jambura Law Review* 5, no. 2 (2023): 227, <https://doi.org/10.33756/jlr.v5i2.11682>.

³⁴ ‘Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power’, OHCHR, accessed 17 March 2026, <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse>.

³⁵ Malik Akbar Mulki Rahman et al., ‘How Criminology and Victimology Answer the Problem of Rape Victim Protection?’, *Law Research Review Quarterly* 9, no. 2 (2023): 162, <https://doi.org/10.15294/lrrq.v9i2.65934>.

environment, thereby mitigating long-term psychosocial rehabilitation, and the psychological impacts, trauma, and social availability of professional support services pressures experienced by victims.³⁶ that uphold their dignity while preventing

The imperative of victim recovery is further harm or secondary victimization during inherently multifaceted, given that victims judicial proceedings. This necessity is frequently endure severe psychological reflected in the victim's efforts to cope with trauma, compromised personal security, and harassment by seeking support from trusted layered forms of suffering encompassing both individuals and engaging in professional physical and mental domains. Individuals therapy.³⁸

subjected to sexual violence often experience This analysis demonstrates that prolonged psychological distress, structural substantive justice entails standards far beyond power asymmetries, and intense social simple administrative settlements or pressures, thereby necessitating a secure and conciliatory agreements. Restorative justice stable environment entirely segregated from mechanisms based on dialogue, voluntary the perpetrator.³⁷ In the absence of such victim participation, perpetrator protective conditions, victims are impeded accountability, and negotiated agreement are from initiating the essential psychological inherently unable to fulfil the structured, processes of detachment from traumatic professional, and sustainable recovery experiences and reconstructing their identity obligations mandated by Law Number 12 of and resilience. Within this framework, the 2022.³⁹⁴⁰ Consequently, applying restorative concept of substantive justice for victims— justice in cases of sexual violence increases the particularly survivors of sexual violence— risk of retraumatization, reinforces existing assumes critical significance. Effective case power imbalances, and shifts the focus of case resolution should guarantee victims resolution from victim-centred recovery to the comprehensive protection from social administrative priorities of law enforcement pressure, access to holistic physical and

³⁶ Rahman et al., 'How Criminology and Victimology Answer the Problem of Rape Victim Protection?', 177.

³⁷ Rahman et al., 'How Criminology and Victimology Answer the Problem of Rape Victim Protection?', 176–77.

³⁸ Syed Arshad Ali Rizvi et al., 'Sexual Harassment and Coping Strategies: Legal Responses and Victim Protection in Known and Unknown Perpetrator Cases', *Annals of Human and Social Sciences* 5, no. 4 (2024): 572, [https://doi.org/10.35484/ahss.2024\(5-IV\)54](https://doi.org/10.35484/ahss.2024(5-IV)54).

³⁹ Lucia Sandoval and Carlos Velasquez, 'Restorative Justice in Criminal Law: Assessing Its Role in Reducing Recidivism Rates', *International Journal of Law, Crime and Justice* 1, no. 1 (2024): 34, <https://doi.org/10.62951/ijlcj.v1i1.250>.

⁴⁰ Yoke Elizabeth Theresia and I. Gusti Ayu Stefani Ratna Maharani, 'Analisis Yuridis Penerapan Restorative Justice di Indonesia Sebagai Upaya Pemenuhan Hak Korban Kejahatan', *Jurnal Media Akademik (JMA)* 3, no. 10 (2025): 11, <https://doi.org/10.62281/sd6t9r40>.

institutions.⁴¹ These limitations indicate that restorative justice, as currently practiced, cannot effectively achieve substantive justice for sexual violence victims within the Indonesian legal framework.

The State must ensure that restorative justice does not function merely as a procedural shortcut but remains anchored in victim recovery and respect for human dignity as the core of substantive justice.⁴² Accordingly, stronger conceptual integration and clear operational limits are necessary to preserve its normative effectiveness and credibility within Indonesia's criminal justice system.⁴³ The enactment of the revised Indonesian Criminal Procedure Code (Law Number 20 of 2025) on 18 November 2025, effective from 2 January 2026, represents an effort to clarify these boundaries. While Article 79 Law Number 20 of 2025 codifies restorative justice as a victim-oriented recovery mechanism, Article 82-point d Law Number 20 of 2025 explicitly excludes its application to certain crimes, including sexual violence. This exclusion reflects the State's commitment to clear normative limits for restorative justice.

Nevertheless, the existence of a comprehensive legal framework under Law Number 20 of 2025 does not automatically prevent deviations in law enforcement practice. The implementation of Article 23 of Law Number 12 of 2022 indicates that explicit statutory prohibitions on restorative justice in sexual violence cases have not entirely prevented non-litigation settlements at the operational level. This suggests that the primary challenge lies not only in normative regulation but also in weak oversight, inconsistent application of legal norms, and the limited internalization of victim-protection principles within Indonesia's criminal justice system. Therefore, the restorative justice provisions in Law Number 20 of 2025 should not be regarded as a definitive solution to criminal procedure reform, but rather as a foundational normative framework requiring continuous oversight, consistent implementation, and stronger internalization of victim-protection values.

CONCLUSION

This study concludes that the application of restorative justice in cases of sexual violence reveals a significant normative problem, manifested as a disharmony between

⁴¹ Inbal Peleg-Koriat and Carmit Klar-Chalamish, 'Sexual Offense Victims' Responses to the Question #WhyIDidntReport? Examining Restorative Justice as an Alternative Dispute Resolution Mechanism', *Conflict Resolution Quarterly* 40, no. 3 (2023): 306, <https://doi.org/10.1002/crq.21369>.

⁴² Sulbadana Sulbadana et al., 'Does International Law Acknowledge Restorative Justice?', *Sriwijaya Law Review*, 31 January 2023, 126, <https://doi.org/10.28946/slrev.Vol7.Iss1.2130.pp121-134>.

⁴³ Wevy Efticha Sary and Fakhriyah Annisa Afroo, 'Problematisasi Perlindungan Hukum Terhadap Anak Korban Incest: Tantangan Dan Harapan', *Jurnal Ilmiah Kutei* 24, no. 1 (2025): 84-85, <https://doi.org/10.33369/jik.v24i1.43310>.

Article 5-point f of Police Regulation Number 8 of 2021 and Article 23 of Law Number 12 of 2022. An analysis of these regulations indicates that Police Regulation Number 8 of 2021 permits the relatively broad implementation of restorative justice without explicitly excluding sexual violence offenses, in contrast to Law Number 12 of 2022, which unequivocally prohibits case resolution through non-litigation mechanisms. Such normative disharmony directly undermines the realization of substantive justice for sexual violence victims, as the misapplication of restorative justice may compromise their rights to protection, proper handling, and comprehensive recovery under Article 70 Section (1) of Law Number 12 of 2022.

AUTHOR CONTRIBUTIONS

Haliza Layla Tsabita: Conceptualization, Methodology, Data Analysis, Writing Original Draft. **Apriliani Kusumawati:** Conceptualization, Supervision, Data Verification.

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