



APPLICATION OF RESTORATIVE JUSTICE IN DOMESTIC VIOLENCE BY WOMEN'S AND CHILDREN UNITS OF BARELANG RESORT POLICE

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Abstract

Domestic violence is any act against a person especially a woman, resulting misery or physical, sexual, psychological and child neglect or suffering. Domestic violence is a hidden crime because there are many victims, but few report incidents. The punishment for the perpetrators must be considered by the principle of expediency and justice. If the concept of restorative justice is done correctly, it can create justice and balance between the perpetrators of crime and the victims. The research method used in this paper is normative legal research, literature studies and case studies. The application of the concept of restorative justice carried out by women's and children protection units of the Barelang Resort Police is making collaboration with CJS and related agencies such as social services in handling cases of violence. The result is that the handling of domestic violence cases in the Barelang Resort Police can be more focused and resolved.

Key words : domestic, violence, restorative justice, application

INTRODUCTION

Problems in the household are no longer taboo to talk about, until be brought to the court, people's more open minded right now and concerns of citizens, especially women have sparked reactions from many parties to fight against all forms of violence against women by forming community-based forums or movements. to reject all forms of domestic violence.

Batam is an industrial and entertainment city in the Riau Islands Province. The large number of immigrants in Batam causes a mixture of culture and customs with the local community as a result of daily interactions and inter-tribal marriages with the immigrant community. In addition, many expatriates and foreign workers live in Batam and then marry local residents. The gap between culture and habits between husband and wife who come from different cultures, ethnicities, and countries as well as social and economic problems causes many cases of domestic violence in Batam.

Domestic violence is an act against someone, especially women, resulting in misery or suffering physically, sexually, psychologically, and / or neglect of the household, including threats, coercion, or deprivation of liberty illegally in scope of the household. This domestic

violence is commonly referred to as Hidden Crime because it has taken quite a number of victims from various circles of society but the victims are reluctant to report the violence has happened to them, they think not necessarily to get justice because of the stigmatization in a society caused by mistakes of themselves. However, the impact experienced from this domestic violence does not only cause physical suffering but also causes trauma and psychological disorders from the victim himself (wife) and the children who witness their parents' fight.

Domestic Violence is regulated in Law No.23/2004 on the Elimination of Domestic Violence. If you look at the process of handling domestic violence cases, philosophically giving punishment to perpetrators must consider that the law can provide benefits to the perpetrators. The concept of justice is not justice to imposing a crime according to the actions of the perpetrator, but justice which is called restorative justice.

However, at the time of the investigation process, there were still many investigators who did not understand the concept of restorative justice, how was the correct implementation mechanism in resolving domestic violence cases so that they were prone to abuse of authority by investigators and the repeated reporting of domestic violence cases after the implementation of restorative justice showed that restorative justice did not work. as it should be.

METHOD

This research was conducted August 2016 at the Women and Children Protection Unit of the Barelang Police Criminal Investigation Unit. The research method used is a qualitative approach with descriptive research methods. The object is the investigator's understanding of the application of restorative justice in cases of domestic violence at the PPA Unit Barelang Police. The research was case studies of several investigative documents on criminal acts of domestic violence.

DISCUSSION

Based on police data on domestic violence cases at the PPA Sat Reskrim Barelang Police Unit in the last three years has increased, in 2015 there were 109 cases, in 2016 there were 101 cases and until July 2017 there were 64 cases reported. The types of violence reported are mostly of physical violence that violates the provisions of Article 44 of the Law on the Elimination of Domestic Violence (PKDRT) and household neglect that violates the provisions of Article 49 of the PKDRT Law, only in 2015 there were two police reports regarding psychological violence as regulated in the provisions of article 45 of the PKDRT Law. Most of the victims were housewives who did not work, aged 30 years and over, and came from middle to lower economic. They reported the violence only to giving a deterrent effect on the perpetrator so he would not repeat that actions. If the perpetrator is summoned to the police station, there will be a fear of not repeating his actions again.

The handling of domestic violence cases at the PPA Sat Reskrim Unit at the Barelang Police begins with investigations, investigations, coercion, making minutes, and filing. In the application of restorative justice, investigators pay attention to the balance between legal certainty, benefit and justice. The concept of restorative justice is an approach more focuses on the conditions of creating justice and balance for the perpetrators of criminal acts and the victims themselves. This restorative justice approach aims to restore to its original condition, the goal of which is the integrity of the household and the best interests of the child. Regarding cases of domestic violence not offenses of the complaint, in terms of positive law it cannot be revoked but in fact the PPA Unit at the Criminal Investigation Unit of the Barelang Police has stopped cases of domestic violence that are not offenses of complaint because there has been deal between the reporter and the reported, so the reporter withdrew the report. Because in this case, law enforcement is considered not to provide utility as in the theory of Utilitarianism put

forward by Jeremy Bentham that the purpose of giving punishment is to provide the greatest benefit and happiness for as many people as possible. In domestic violence case, the punishment for the perpetrator must consider that the law must be able to provide benefits to the perpetrator. So that in the handling of criminal acts of domestic violence in its development it leads to a settlement outside the criminal court through restorative justice which prioritizes the fulfillment of a sense of justice for all parties; the victims, perpetrators, and the community. In the restorative justice theory put forward by Tony F. Marshall, the resolution of a problem is carried out jointly and the emergence of peace is purely on the will and desire of the community itself. There may be no coercion from any party in the creation of this agreement. Then the mediation process which is based on a sense of sincerity followed by the withdrawal of the report by the victim can be said to be the result of the restorative justice process.

Explanation of the definition of restorative justice put forward by Toni Marshal in "Restorative Justice an Overview", developed by Susan Sharpe in book "Restorative Justice a Vision For Hearing and Change" which reveals 5 key principles of restorative justice, namely:

1. Restorative Justice contains full participation and consensus.

In this case, the application of restorative justice in the settlement of domestic violence cases carried out by investigators of the PPA Unit of the Criminal Investigation Unit of the Bareleng Police through a mediation process to produce an agreement for settlement in a friendly manner. The collective agreement letter must be signed by the victim, the perpetrator and other witnesses from the family or community concerned. So the application of the principle of restorative justice already contains the participation of all parties involved and contains a consensus that must be obeyed.

2. Restorative Justice seeks to heal any damage or loss caused by a crime;

In domestic violence, there has been damage to the victim, physical and psychological damage and the relationship between the victim and the perpetrator. The investigator tries to restore the loss suffered by the victim to the way it was before.

3. Restorative Justice provides full direct accountability of the perpetrators.

In the settlement of domestic violence cases through restorative justice, investigators at the PPA Unit, Criminal Investigation Unit, Bareleng Police, provide opportunities for victims to get compensation from the perpetrator. And the opportunity for the perpetrator to provide direct and complete accountability in providing compensation to the victim. This compensation can be in the form of material or immaterial.

4. Restorative Justice seeks reunification for community members who were divided or separated due to criminal acts.

The familial mediation process carried out by investigators is a form of restorative justice application that is desired by all parties for the purpose of creating a harmonious relationship and uniting relationships that were split or separated in the family and community environment.

5. Restorative Justice provides resilience to the community in order to prevent further criminal acts.

By drafting and signing a peace agreement letter between the parties, witnessed by the family or witnesses from the community, it can provide knowledge for the wider community to prevent similar cases from occurring later. So the principle of restorative justice is in providing resilience to the community to prevent further criminal acts

In handling domestic violence cases, the role of the community is needed to involve themselves in giving sanctions in the form of shame to perpetrators of domestic violence so that the perpetrators feel ashamed and realize the mistakes they have made followed by reintegration efforts against the perpetrators so that they are ready to return to society. The giving of shame is the same as social sanctions which of course will be more effective when

compared to the criminal sanctions given.

CONCLUSION

The need for monitoring / supervision after the restorative justice process before the domestic violence case is stopped by the investigator to monitor or supervise the restorative justice. Are the points of the agreement stated during the mediation process in accordance with the agreement a letter signed by both parties, carried out and obeyed by both parties. This supervision / monitoring can be carried out by community authorities such as religious leaders, traditional leaders or family parties who are elders and respected by both parties because this authority is the closest to and has direct contact with the parties as well as the involvement of investigators in collaboration with Bhabinkamtibmas officers around the neighborhood. live the perpetrator. It is hoped that this monitoring can be used as a means of control over the perpetrator so that he is careful in his attitude so that he does not commit the same violence against the victim (his wife).

So the application of restorative justice is carried out with the aim of restoring something to be good again as before by involving victims, perpetrators and the community in finding solutions that prioritize repair, reconciliation and protection again.

BIBLIOGRAPHY

- Muhammad, Farouk dan Djaali. 2003. Metodologi Penelitian Sosial, Jakarta, PTIK Press.
- Muhammad, Farouk, dkk, 2006. Metodologi Penelitian, Modul A2536/2SKS, Jakarta, PTIK.
- Ridwan Mansyur. 2010. Mediasi Penal Dalam Perkara KDRT, Jakarta : Buana Ilmu Populer
- Terry, George. 1986. Azas-Azas Manajemen, dialihbahasakan oleh Winardi, Bandung, Alumni.
- Republik Indonesia. 2002. Undang-Undang No. 2 Tahun 2002 tentang Kepolisian Negara RI.
- Republik Indonesia. 2004. Undang-Undang No. 23 Tahun 2004 tentang Penghapusan Kekerasan dalam rumah tagngga.
- Republik Indonesia.1981. Kitab Undang-Undang Hukum Pidana (KUHP).
- Republik Indonesia. 1981. Kitab Undang-Undang Hukum Acara Pidana (KUHAP).