Review Article

The Existence of POLRI in Handling Minor Crimes of Defamation Through Social Media in the Electronic Information and Transaction Law

Andreas Manurung[1*], Abdul Hakim[2], Maya Jannah[3], Risdalina[4]

[1,2,3,4] Faculty of Law, Labuhanbatu University, North Sumatera, Indonesia

*Corresponding author: andreasmanurung0305@gmail.com

Abstract: The progress of information technology has positive and negative impacts; from a legal perspective, many criminal cases related to the social world in information technology occur in Indonesia. Meanwhile, the application of Law in Indonesia only prioritizes the principle of legal certainty and does not reduce the number of crimes that have happened in the State of Indonesia; until now, it has become a burden for the state when every criminal case ends up in prison. Law enforcers, the Police, the Attorney General's Office, and the Supreme Court created a restorative justice approach in applying criminal cases as a settlement mechanism outside the general court based on the principle of Justice. The application of restorative Justice is not always oriented toward criminal punishment. Still, it is more directed at aligning the interests of recovering victims and the accountability of perpetrators of criminal acts.

Keywords: Restorative Justice, Crime, Application of Law, Law enforcers, Punishment, Information Technology

check for updates

Citation: A.Manurung, A.Hakim, M.Jannah, Risdalina, " The Existence of POLRI in Handling Minor Crimes of Defamation Through Social Media in the Electronic Information and Transaction Law". *Iota,* **2023**, ISSN 2774-4353, Vol.03, 01. https://doi.org/10.31763/iota.v3i1.591

Academic Editor : P.D.P.Adi

Received : Jan, 07 2023

Accepted : Jan, 18 2023

Published : Feb, 21 2023

Publisher's Note: ASCEE stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.

1. INTRODUCTION

The development of the globalization era, especially in information technology, has greatly affected human civilization; before the development of technology, human activities and activities were still dominated by activities that used physical and direct means. With the advancement of information technology, human activities are carried out by highly sophisticated technology-based equipment. It also has a significant impact on problems arising from the misuse of Information and electronic transactions in terms of Law or can become a criminal offense in social media using information technology, e.g., crimes in the world of social media (cyberspace) such as defamation can occur in social media based on the Law on Information and Electronic Transactions. The development of the rapid advancement of Information Technology has led to changes in human life activities in various fields, including in Indonesia, which has directly influenced the birth of new forms of legal acts that must be anticipated by the Government balanced by the formation of laws and regulations as positive Law that must be implemented and obeyed by all levels of society. The formation of our laws uses the word *strafbaarfeit* to refer to what we know as a "*criminal offense*". The framers of the Law did not provide further explanation of the *strafbaarfeit*, therefore for the purpose and purpose of the *strafbaarfeit* is often used by criminal law experts with the term criminal offense, criminal act, criminal event, and offense. The term "*strafbaar feit*" itself, which is

Dutch, consists of three words, namely *straf* which means punishment (Criminal), *baar* which means can (may), and *feit* which means act, event, offense and action. So the term *strafbaarfeit* is an event that can be punished or an action that can be punished. (*I Made Widnyana, 2010, p. 32*)

According to Professor Pompe, the word Strafbaar *feit* can theoretically be formulated as a violation of norms (disturbance of legal order) which has been intentionally or unintentionally committed by a perpetrator, where the imposition of punishment on the perpetrator is necessary for the maintenance of legal order and the guarantee of public interests. (*P.A.F Lamintang, 2011, p. 180*). Moreover, According to Pompe in Bambang Poernomo, the definition of Strafbaar feit can be divided into The definition, according to theory, is a violation of norms committed due to the fault of the violator and threatened with punishment The definition according to positive Law is an event/feit that is threatened with punishment. While the word "offense" comes from Latin, namely delictum. In German, it is called delict, in French it is called delit, and in Dutch it is called delict. Meanwhile, in the large Indonesian dictionary, the meaning of offense is given a limitation, namely: "an act that can be subject to law because it is a violation of the law; criminal offense". Some opinions of legal experts from the west (Europe) regarding the definition of *strafbaar feit*, among others, are as follows: (*Bambang Poernomo, 1997, pp. 86*)

a) Simons, limiting the definition of *strafbaar feit* is an unlawful act that has been committed intentionally by someone who can be held accountable for his actions and which the Law has declared as a punishable act.
b) Pompe, *strafbaar feit* is a violation of norms (disturbance of legal order) which has been intentionally or unintentionally committed by an offender, where the imposition of punishment on the offender is necessary for the maintenance of legal order.
c) Hasewinkel Suringa, *strafbaar feit*, which is general in nature, is a human behavior that at a certain time has been rejected in a certain association of life and is considered behavior that must be eliminated by criminal Law using coercive means contained in the Law.

Some opinions of Indonesian legal experts regarding *Strafbaar feit* include the following:

a) Roeslan Saleh, defines the term *strafbaar feit* as an act that is contrary to the system or provisions desired by the Law, where the main requirement for the existence of a criminal act is the fact that there is a prohibiting rule.
b) Moeljatno translates the term "*strafbaar feit*" with criminal act. A criminal act is an act prohibited by a rule of Law in which prohibition is accompanied by a threat (sanction) in the form of certain punishment for anyone who violates the prohibition.
c) Wirjono Prodjodikoro uses the term criminal act is still employed with the term criminal act or in Dutch *Strafbaar feit*, which is an act whose perpetrator can be subject to criminal punishment and this perpetrator can be said to be the "subject" of the criminal act.

According to M. Yahya Harahap, Examination of Court Hearings, Appeals, Cassations, and Judicial Review states, among others, Minor Crimes are types of

criminal offenses that can be classified into minor criminal proceedings. (*Yahya Harahap. 2009, Discussion of Problems and Application of the Criminal Code, Sinar Grafika. Jakarta, p. 99*) However, Law Number 8 the Year 1981 on Criminal Procedure (KUHAP) does not explain the criminal offenses that are included in the examination of minor offenses. However, KUHAP determines the benchmark in terms of "*criminal punishment*." Based on Article 205 paragraph (1) of KUHAP, a minor criminal offense is a case punishable by imprisonment or confinement for a maximum of 3 (three) months and or a fine of up to Rp. 7500 (seven thousand five hundred rupiahs); Minor insults, except those specified in paragraph 2 of this section (Procedures for Examination of Traffic Violation Cases) (Article 205 paragraph (1) KUHAP); For cases punishable by imprisonment for a maximum of 3 (three) months or a fine of more than Rp. 7500, also includes the authority of the Tipiring examination (Supreme Court Circular Letter (SEMA) Number 18 of 1983). One of the considerations of Supreme Court Regulation No. 2/2012 on the Adjustment of the Limitation of Minor Crimes and the Number of Fines in the Criminal Code also states that this regulation does not intend to change the Criminal Code; the Supreme Court only adjusts the value of money which is no longer in accordance with current conditions.

This is intended to make it easier for law enforcers, especially judges, to provide Justice to the cases they adjudicate. The provisions of Article 2 of Perma No. 2 of 2012 concerning the Adjustment of the Limitation of Minor Crimes and the Number of Fines in the Criminal Code state:

1. In receiving the delegation of cases of theft, fraud, embezzlement, and extortion from the Public Prosecutor, the President of the Court must pay attention to the value of the goods or money that are the object of the case and pay attention to article 1 above.
2. If the value of the goods or money is not more than 2,500,000 rupiah (two million five hundred thousand rupiah) the Chief Justice of the Court shall immediately appoint a Single Judge to examine, hear and decide the case with a Rapid Examination Procedure as regulated in Articles 205-201 of the Criminal Procedure Code.
3. If the defendant was previously detained, the Chief Justice should not order detention or an extension of detention.

The Supreme Court's effort through Perma No. 2/2012 is part of the criminal justice reform that has been inappropriate with the current conditions and is an effort to accelerate the criminal justice process. The punishment system in the Criminal Code is still focused on the prosecution of criminals, not yet paying attention to the recovery of losses and suffering of victims lost due to crime. In the punishment system listed in Article 10 of the Criminal Code, the essence is still adhering to the retributive paradigm, which is to provide an appropriate reply to the crime committed by the perpetrator. The retributive paradigm provides a deterrent effect so that the perpetrator does not repeat the crime and prevents (prevents effect) the community from committing crimes. The use of the retributive paradigm has not been able to recover the losses and suffering experienced by victims. Although the perpetrator of the crime has been found guilty and received punishment, the victim's condition cannot return to its

original state. With these weaknesses, the idea of a punishment system oriented toward restoring victims' loss and suffering has emerged, known as the Restorative Justice approach.

This is because the victim is the party most harmed by the crime. Restorative Justice is proposed to reject coercive means and replace them with reparative means. Restorative Justice accommodates the interests of the parties, including the victim, because the victim determines the perpetrator's sanctions. Restorative Justice returns the conflict to the affected parties (victims, offenders, and their communities) and prioritizes their interests. Restorative Justice seeks to restore the victim's security, personal respect, dignity, and, more importantly, sense of control. By adhering to the Restorative Justice paradigm, it is hoped that the losses and suffering experienced by victims and their families can be restored and the burden of guilt of the perpetrators of criminal acts can be reduced because they have received forgiveness from victims or their families. (*Bambang Waluyo, 2015, pp. 107-108*)

Based on the background of the problems that have been described, the problem in this study is the Existence and Procedures for the Implementation of the Settlement of Handling of Minor Crimes Cases Based on Police Regulation Number 8 of 2021 concerning Handling of Crimes Based on Restorative Justice Against Minor Crimes in the Electronic Information and Transaction Law. The purpose of this research in accordance with the problems that have been stated, is to find out the Existence and Procedures for the Implementation of Police Regulation Number 8 of 2021 concerning the Handling of Crimes based on Restorative Justice in the Electronic Information and Transaction Law.

2. METHOD

The research method used in this research is the normative legal research method. Normative legal research is conducted by examining library materials or secondary data (*Soerjono Soekanto et al. 2003: 13*). The research method used by normative Law (normative law research) uses normative case studies in the form of legal behavior products, for example, examining the Law. The subject of study is Law which is conceptualized as norms or rules that apply in society and become a reference for everyone's behavior. So that normative legal research focuses on the inventory of positive Law, legal principles and doctrines, legal discovery in cases in concreto, legal systematics, the level of synchronization, comparative Law, and legal history, which aims to describe systematically, factually, and the research material in this study used is Supreme Court Regulation (Perma) No. 2 of 2012 concerning the Settlement of the Limitation of Minor Crimes (Tipiring) and the Number of Fines in the Criminal Code and Police Regulation Number 8 of 2021 concerning Handling Crimes based on Restorative Justice.

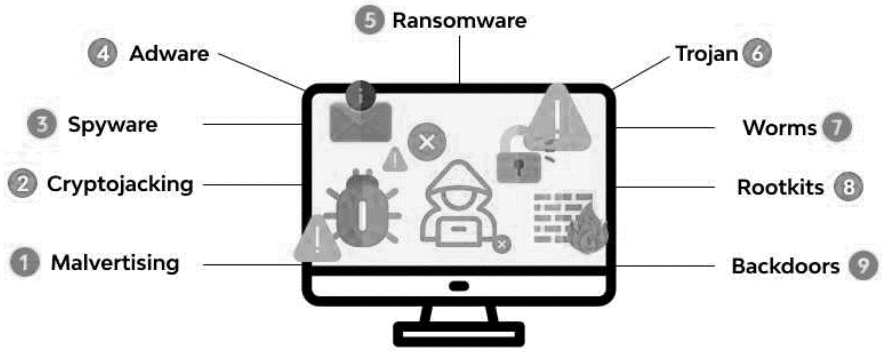

Figure 1. Types of Malware (20)

Moreover, Figure 1 shows the types of Malware that need to be known, including Malvertising, Cryptojacking, Spyware, Adware, Ransomware, Trojans, Worms, Rootkits, and Bacdoors; all of these types of Malware are used for crimes, for example, electronic transactions, for this reason, prevention is needed and special laws need to be implemented in handling this crime. Furthermore, the steps of criminal activity using this Malware are shown in Figure 2. Meanwhile, the specific steps and preventive measures for malware prevention are described in Figure 3.

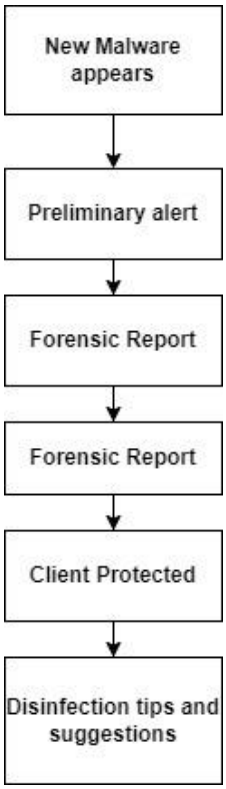

Figure 2. Examples of criminal acts using Malware (22)

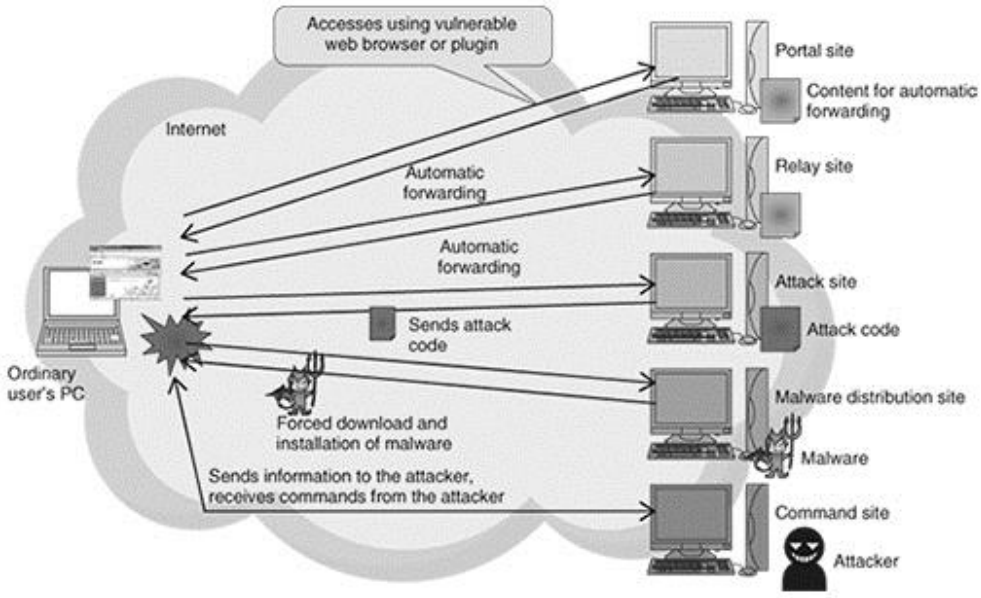

Figure 3. Malware Countermeasure Steps (21)

3. RESULT AND DISCUSSION

3.1 Existence and Procedures for Implementing Police Regulation Number 8 of 2021 Concerning the Handling of Crimes Based on Restorative Justice Against Minor Crimes of Defamation Through Social Media in the Law on Information and Electronic Information and Electronic Transactions (Labuhanbatu Polres Study)

In 2016, amendments to Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions were ratified. This amended Electronic Information and Transaction Law contains seven important points that revise the Electronic Information and Transaction Law, especially through this new Law; the Government also has the authority to cut off access and/or order electronic system operators to cut off access to electronic Information that violates the Law. It is hoped that this new Law will provide legal certainty for the public so that they can be smarter and more ethical in using the Internet. Thus content with elements of SARA, radicalism, and pornography can be minimized.

This amended Electronic Information and Transaction Law contains seven important points that revise the Electronic Information and Transaction Law, especially through this new Law; the Government also has the authority to cut off access and/or order electronic system operators to cut off access to electronic Information that violates the Law. It is hoped that this new Law will provide legal certainty for the public so that they can be smarter and more ethical in using the Internet. Thus content with elements of SARA, radicalism, and pornography can be minimized. Moreover, The basis for the Electronic Information and Transaction Law was drafted to support economic growth in Indonesia through the digital economy and e-commerce in Indonesia. Then in the middle of the journey, there were many polemics and cases that raised pros and cons against

the articles in the Electronic Information and Transaction Law, especially those related to the use of social media. These articles are considered to threaten the freedom of expression of Internet users.

Article 1 of Law No. 19/2016 on the Amendment to Law No. 11/2008 on Electronic Information and Transactions explains what is meant by:

1. Electronic Information is one or a set of electronic data, including, but not limited to, writings, sounds, images, maps, designs, photographs, electronic data interchange (EDI), electronic mail, telegram, telex, telecopy or the like, letters, signs, numbers, Access Codes, symbols, or perforations that have been processed which have meaning or can be understood by people who are able to understand them.
2. Electronic Transaction is a legal action carried out using a computer, computer network, and/or other electronic media.
3. Information technology is a technique to collect, prepare, store, process, announce, analyze, and/or disseminate Information.

There are several changes in the new Electronic Information and Transaction Law, which are as follows:

1. To avoid multiple interpretations of the provisions on the prohibition of distributing, transmitting and/or making accessible Electronic Information containing insults and/or defamation in the provisions of Article 27 paragraph (3), 3 (three) changes are made as follows:
   a) Adding an explanation to the term "*distributing, transmitting and/or making accessible Electronic Information*." - What is meant by "distributing" is sending and/or disseminating Electronic Information and/or Electronic Documents to many people or various parties through an Electronic System. - What is meant by "*transmitting*" is sending Electronic Information and/or Electronic Documents addressed to one other party through an Electronic System. - What is meant by "making accessible" is all of the following other than distributing and transmitting through an Electronic System that causes Electronic Information and/or Electronic Documents to become known to other parties or the public.
   b) Affirming that the provision is a complaint offense, not a general offense.
   c) Affirming that the criminal elements in the provision refer to the provisions of defamation and slander regulated in the Criminal Code.
2. Lowering the punishment in 2 (two) provisions in Article 29 as follows:
   a) The criminal punishment for insult and/or defamation is reduced from a maximum imprisonment of 6 (six) years to a maximum of 4 (years) and/or a fine from a maximum of Rp 1 billion to a maximum of Rp 750 million.
   b) Criminal punishment for sending electronic Information containing threats of violence or fear is reduced from a maximum imprisonment of 12 (twelve) years to a maximum of 4 (four) years and/or a fine from a maximum of Rp 2 billion to a maximum of Rp 750 million.
3. Implement the decision of the Constitutional Court on 2 (two) provisions as follows:
   a) Amend the provisions of Article 31 paragraph (4), which originally mandated the regulation of interception or wiretapping procedures in a Government Regulation, into a Law.

b) Adding an explanation to the provisions of Article 5 paragraph (1) and paragraph (2) regarding the existence of Electronic Information and/or Electronic Documents as legal evidence.

4. Synchronize the procedural law provisions in Article 43 paragraph (5) and paragraph (6) with the procedural law provisions in KUHAP, as follows:
   a) Search and/or seizure, which originally had to obtain permission from the Head of the local District Court, shall be adjusted to the provisions of KUHAP.
   b) Arrest and detention, which originally had to request a determination from the Chairman of the local District Court within 1×24 hours, was readjusted to the provisions of KUHAP.
5. Strengthen the role of Civil Servant Investigators (PPNS) in the ITE Law in the provisions of Article 43 paragraph (5):
   a) The authority to limit or terminate access related to information technology criminal offenses;
   b) The authority to request Information from the Electronic System Operator related to criminal acts of information technology.
6. Add provisions regarding the "*right to be forgotten*" to the provisions of Article 26, as follows:
   a) Every Electronic System Operator is obliged to delete irrelevant Electronic Information under its control at the request of the person concerned based on a court order.
   b) Every Electronic System Operator must provide a mechanism for deleting Electronic Information that is no longer relevant. (Adding provisions or obligations to delete irrelevant content for electronic system providers as a guarantee of fulfillment of personal data protection. This provision is implemented at the request of the person concerned based on a court order).
7. Strengthening the role of the Government in providing protection from all types of disturbances due to misuse of Information and electronic transactions (Providing a strong foundation for the Government to prevent the dissemination of negative content on the Internet) by inserting additional authority in the provisions of Article 40:
   a) The Government is obliged to prevent the dissemination of Electronic Information that has prohibited content;
   b) The Government is authorized to terminate access and/or order the Electronic System Operator to terminate access to Electronic Information that has unlawful content.

   The regulation of minor criminal offenses is contained in Article 205, paragraph (1) of KUHAP:

   "*Examined according to the examination procedure for minor criminal offenses are cases punishable by imprisonment or confinement for a maximum of three months and/or a fine of up to seven thousand five hundred rupiahs and minor insults except those specified in Paragraph 2 of this Section."*

   Then with the adjustment of fines in Supreme Court Regulation No. 2/2012 on the Adjustment of the Limitation of Minor Crimes and the Number of Fines in the Criminal Code, a Memorandum of Understanding was issued by the Chief Justice of the Supreme Court, Minister of Law and Human Rights, Attorney General, Chief of the Indonesian National Police No. 131/KMA/SKB/X/2012,

M.HH-07.HM.03.02, KEP-06/E/EJ/EJ.02. .02, KEP-06/E/EJP/10/2012, B/39/X/2012 of 2012 on the Implementation of the Adjustment of the Limitation of Minor Crimes and the Number of Fines, Rapid Examination Procedures, and the Application of Restorative Justice ("*2012 Memorandum of Understanding*").

Restorative Justice is the settlement of a crime by involving the perpetrator, victim, perpetrator's family, victim's family, community leaders, religious leaders, traditional leaders, or stakeholders to jointly seek a fair solution through peace by emphasizing restoration to its original state. Restorative Justice is one of the principles of law enforcement in resolving cases that can be used as an instrument of recovery and has been implemented by the Supreme Court in the form of policy enforcement, but its implementation in the Indonesian criminal justice system has not been carried out optimally. Restorative Justice as an alternative settlement of criminal cases which in the mechanism of criminal justice procedures, focuses on punishment which is converted into a dialogue and mediation process involving the perpetrator, victim, family of the perpetrator/victim, and other related parties. This aims to jointly create an agreement on a fair and balanced settlement of criminal cases for victims and perpetrators by prioritizing restoration to their original state and restoring good relations in society.

The characteristics of the process of using the Restorative Justice approach include the following:

a) The flexibility of the response from the environment, both to the criminal acts that occurred and to the perpetrators and victims, is individual in nature and must be seen case by case.
b) The response given to cases that occurred reflects deep concern and equality of treatment for everyone, builds understanding among community members, and encourages harmonious relations between community members to eliminate damage caused by criminal acts.
c) It is an alternative to settling cases outside or by using the applicable formal criminal justice system and preventing the negative stigma that arises on the perpetrators as a result of this process. This restorative approach can use criminal Law as an effort to resolve it both in the process and in the type of sanctions imposed.
d) This approach also covers efforts to solve problems that occur and resolve all conflicts that arise.
e) This restorative approach aims to eliminate the perpetrator's guilt and is a medium for efforts to meet the needs of victims.
f) This approach must be accompanied by efforts to encourage perpetrators to receive corrections and input for changes in their behavior and encourage perpetrators to take responsibility through meaningful actions.
g) The flexibility and variables used in this paradigm's approach can be adopted from the environment, legal traditions in society, and the principles and philosophies adopted by the national legal system.

The guidelines for handling case settlements with a Restorative Justice approach in accordance with Police Regulation Number 8 of 2021 concerning Handling Crimes Based on Restorative Justice are as follows:

a. The material requirements are met, namely:
    1. Does not cause public unrest, and there is no public rejection.
    2. Does not result in social conflict.
    3. There is a statement from all parties involved not to object and to waive their right to sue before the Law.
    4. Limiting principle:

a) On the perpetrator: The culpability of the perpetrator is relatively not severe, namely the fault (*schuld*) or mensrea in the form of intent (*dolus or opzet*), especially intent as an intention or purpose (*opzet als oogmer*k); and The perpetrator is not a recidivist.
b) In criminal offenses in the process of: Investigation; and Investigation before the SPDP is sent to the Public Prosecutor.

b. The formal requirements are met, namely:
    1. A letter of request for peace from both parties (the Reporter and the Complainant).
    2. A statement of peace (*akte dading*) and settlement of the dispute between the parties (the Reporter and/or the Reporter's family, the reported party and/or the reported party's family, and representatives of community leaders) known by the investigator.
    3. Minutes of additional examination of the parties after the settlement of the case through Restorative Justice.
    4. Recommendation for a special case title that approves restorative justice settlement.
    5. The perpetrator does not object to responsibility, compensation, or voluntariness.
    6. Restorative Justice is available for general crimes that do not cause human casualties.

Moreover, the Procedure for Implementation in the implementation of Restorative Justice is based on Police Regulation Number 8 of 2021 concerning Handling Crimes. Based on Restorative Justice in Chapter III Part One Settlement of Minor Crimes, Article 11 through Article 14 is as follows:

1. After receiving the request for peace from both parties signed on stamp duty, an administrative study of the formal requirements for case settlement through Restorative Justice is conducted.
2. The request for reconciliation after the formal requirements are met submitted to the superior investigator for approval.
3. After the application is approved by the superior investigator, such as KABARESKRIM, KAPOLDA, and KAPOLRES, then wait for the time to sign the peace statement.
4. Conducting a conference that results in an agreement signed by all parties involved.
5. Make an official memorandum to the supervisor of investigators or the Head of the Working Unit regarding the request to hold a special case title for the purpose of terminating the case.
6. Carry out a special case title with participants of the Complainant and/or the Complainant's family, the reported and/or the reported's family, and community representatives appointed by the investigator, the investigator

in charge, and representatives of the internal supervisory function and legal function and government elements if necessary.
7. Compile administrative documents and documents for special case titles and reports on case title results.
8. Issuing an order to stop the investigation/investigation and a decree to stop the investigation/investigation on the grounds of Restorative Justice.
9. In the investigation stage, the investigator issues a warrant issued by the Director of Criminal Investigation of the National Police Headquarters, POLDA level, and POLRES or POLSEK level.
10. Record into a new register book B-19 as a restorative justice case counted as a case settlement.

An example of a case of Defamation and or Defamation Through Social Media The application of the implementation of Restorative Justice is based on Police Regulation Number 8 of 2021 at Labuhanbatu Police Station regarding Defamation and or Defamation Through Social Media based on Police Report Number: LP/B/1087/V/2022/SPKT/RES-LABUHANBATU/POLDA SUMUT, Reporter on behalf of Trianto Wibowo. The chronology is that on Sunday, May 22, 2022, and the Complainant opened his WhatsApp social media account where the Complainant joined the WhatsApp group "KB FKPPI LABUHANBATU", initially the conversation in the group used to discuss organizational matters, suddenly the owner of the WhatsApp number 085270819088 which the Complainant knew was ABY and made an article whose contents were: "*You're not ashamed of Bowo having a debt with your friend*." For that writing, the Complainant objected and then made a report on Insults and or Defamation Through Social Media to Labuhanbatu Resort Police. In this case, the Labuhanbatu Resort Police took a Restorative Justice approach in handling and resolving cases of Insults and or Defamation Through Social Media based first on the results of a deliberative peace agreement between the Reporter (victim) and the Reported Party (perpetrator) where both Parties first made a Peace Request Letter signed on stamp duty after which the Police made additional Minutes of Examination of the litigants after case settlement through restorative Justice, "Peace and Settlement of Crimes between the Reporter (victim) and the Reported (perpetrator) must first fulfill Chapter III Part One Settlement of Minor Crimes Article 11 through Article 14 of Police Regulation Number 08 of 2021 concerning Handling Crimes Based on Restorative Justice.

That the regulations and policies issued by the criminal justice sub-system regarding the criteria of criminal offenses that can be resolved through Restorative Justice have an impact and urgency on the application of the Restorative Justice approach in the Indonesian criminal justice system is also in line with Marc Levin's opinion, which states that approaches that were once declared as obsolete, old-fashioned and traditional are now actually declared as progressive approaches. What Marc Levin stated is actually not wrong because the Restorative Justice approach already exists in the punishment system according to customary Law that applies in various countries, including Indonesia. In addition, in the Indonesian context, the application of Restorative

Justice can also reduce the problem of overcrowding in correctional institutions, which in Indonesia is a severe problem.

As a result of the legalistic approach to prosecution carried out by the prosecutor's office, many perpetrators of criminal acts are sentenced to criminal penalties. At the end of the sentence, the convicted person becomes a prisoner in a correctional institution. The impact is that state detention centers (Rutan) and correctional institutions (Lapas) become full, which creates complex problems so that the community cannot feel the purpose of corrections and their utilization. Therefore, the application of the restorative justice approach in Indonesia's punishment system is essential and is believed to be able to provide significant benefits for the perpetrators, victims, and their respective communities as well as for the state:

1. Achieving law enforcement objectives, namely Justice, legal certainty and benefits for the community.
2. The achievement of judicial ideals that are fast, simple, cheap, effective, and efficient.
3. Strengthening the Police and Prosecutor's Office institutions, their apparatus, participation, and increasing public confidence.
4. State financial savings.
5. Overcapacity of detention centers and prisons can be reduced or avoided.
6. Reduction in the accumulation of police reports and cases in the prosecutor's office and court.
7. Income to state financial revenues, asset recovery, state financial rescue, etc.

4. CONCLUSIONS

The regulation of minor criminal offenses is a case punishable by imprisonment or confinement for a maximum of three months and a fine of up to seven thousand five hundred rupiahs and minor insults except those specified in Paragraph 2 of this Section." Also in, the 2012 Memorandum of Agreement, it states that Minor Crimes (Tipiring) are criminal offenses regulated in Articles 364, 373, 379, 384, 407, and Article 482 of the Criminal Code (KUHPidana), which are punishable by imprisonment for a maximum of 3 (three) months or a fine of 10,000 (ten thousand) times the fine. That the procedure for handling criminal offenses based on Restorative Justice must meet the material requirements and formal requirements in accordance with Police Regulation Number 8 of 2021 in Chapter III concerning Procedures for resolving minor crimes, as an example of the application of Restorative Justice case settlement which was successfully implemented at Labuhanbatu Police Station regarding Insults and or Defamation Through Social Media based on Police Report Number : LP/B/1087/V/2022/SPKT/RES-LABUHANBATU/POLDA SUMUT, as well as the urgency of the application of the concept of Restorative Justice justice is not always oriented towards criminal punishment alone, but rather leads to aligning the interests of victim recovery and the accountability of criminal offenders, and is one of the efforts to reduce the problem of overcrowding of correctional institutions in Indonesia, The overcapacity of detention centers and prisons has resulted in the unachievement of the goal of correctional institutions to become

fully human, realize mistakes, improve themselves and not repeat criminal acts so that they can be accepted back into society, so that they can play a role as free and responsible members of society and become one of the wastes in the State budget.

AUTHOR CONTRIBUTIONS

Conceptualization; Andreas Manurung [A.M], Abdul Hakim [A.H], Maya Jannah [M.J], Risdalina Risdalina [R.R], methodology; [A.M],[A.H],[M.J],[R.R], validation; [A.M],[A.H],[M.J],[R.R], formal analysis; [A.M],[A.H],[M.J],[R.R], investigation; [A.M],[A.H],[M.J],[R.R], data curation; [A.M],[A.H],[M.J],[R.R], writing—original draft preparation; [A.M],[A.H],[M.J],[R.R], writing—review and editing; [A.M],[A.H],[M.J],[R.R], visualization; [A.M],[A.H],[M.J],[R.R], supervision project administration; [A.M],[A.H],[M.J],[R.R], funding acquisition; [A.M],[A.H],[M.J],[R.R], have read and agreed to the published version of the manuscript.

ACKNOWLEDGMENTS

Thanks to the entire research team at the Faculty of Law, Labuhanbatu University, hopefully, this research can continue to be developed and be useful for related disciplines and become considerations and references for future researchers. This research is far from perfect, so further development and research must be done.

CONFLICTS OF INTEREST

The authors declare no conflict of interest.

REFERENCES

1. Muharram, Fajar, “Ethics and Power of Indonesian Social Media users: a Study based on Gramsci's Theory of Hegemony and Electronic information an Transaction law”, December 2020, European Journal Of Political Science Studies, ISSN 2601-2766, DOI: 10.46827/ejpss.v4i1.977
2. Rionov Oktana, Syukri Akub, Maskun Maskun, “Social Media in the Process of Evidence of Electronic Information and Transaction Crimes”, March 2023, SIGn Jurnal Hukum 4(2):320-331, DOI: 10.37276/sjh.v4i2.252
3. Tyna Yunita, Murti Wijayanti, Heni Rohaeni, “Education On Understanding Of Information And Electronic Transaction Laws In The Context Of Social Media”, August 2022, Intenational Journal Of Community Service (IJCS), DOI: 10.51601/ijcs.v2i3.123
4. Gazalba Saleh, "The Constitutionality of the Electronic Information and Transaction Law: Towards Overcoming SARA Conflict on Social Media", February 2022, Jurnal Konstitusi 18(4):846, DOI: 10.31078/jk1846
5. Zariah Nur, Mahzaniar Mahzaniar, "Implementation of the electronic transaction law (UU ITE) reviewed based on the book of criminal law (KUHP) on freedom of community expression in social media", The Fox Justi : Jurnal Ilmu Hukum, September 2022, DOI: 10.58471/justi.v13i1.437
6. Abdul Halim Barkatullah, 2017, Hukum Transaksi Elektronik, Nusa Media.
7. Abdulkadir Muhammad, 2004, Hukum dan Penelitian Hukum, Cet. 1, PT. Citra AdityaBakti Bandung.

8. Andi Hamzah, 2014, Asas-Asas Hukum Pidana, PT. Rineka Cipta, Jakarta.
9. Bambang Waluyo, 2015, Buku Penegakan Hukum Di Indonesia, Sinar Grafika, Jakarta.
10. Jonlar Purba, 2017, Penegakan Hukum Terhadap Tindak Pidana Bermotif Ringan Dengan Restorative Justice, Jala Permata Aksara, Jakarta.
11. P.A.F Lamintang, 2011, Dasar-Dasar Hukum Pidana Indonesia, PT Citra Aditya Bakti, Bandung.
12. Soerjono Soekanto & Sri Mamudji, 2003, Penelitian Hukum Normatif: Suatu Tinjauan Singkat, PT. Raja Grafindo Persada, Jakarta.
13. Yahya Harahap, 2009, Pembahasan Permasalahan Dan Penerapan KUHP, Sinar Grafika, Jakarta.
14. Pembahasan Permasalahan dan Penerapan KUHAP (Pemeriksaan Sidang Pengadilan, Banding, Kasasi, dan Peninjauan Kembali), 2010, Sinar Grafika, Jakarta.
15. Kitab Undang-Undang Hukum Pidana;
16. Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana;
17. Peraturan Mahkamah Agung Nomor 2 Tahun 2012 tentang Penyesuaian Batasan Tindak Pidana Ringan dan Jumlah Denda dalam KUHP;
18. Peraturan Badan Pembinaan Keamanan Kepolisian RI Nomor 13 Tahun 2009 tentang Penanganan Tindak Pidana Ringan (Tipiring);
19. Nota Kesepakatan Bersama Ketua Mahkamah Agung, Menteri Hukum Dan Hak Asasi Manusia, Jaksa Agung, Kepala Kepolisian Negara Republik Indonesia Nomor 131/KMA/SKB/X/2012, M.HH-07.HM.03.02, KEP-06/E/EJP/10/2012, B/39/X/2012 Tahun 2012 tentang Pelaksanaan Penerapan Penyesuaian Batasan Tindak Pidana Ringan dan Jumlah Denda, Acara Pemeriksaan Cepat, Serta Penerapan Keadilan Restoratif (Restorative Justice).
20. Peraturan Polri Nomor 8 Tahun 2021 Tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif
21. Undang Undang Nomor 19 Tahun 2016 tentang Perubahan Atas Undang Undang Nomor 11 Tahun 2008 Tentang Informasi dan Transaksi Elektronik
22. https://www.hukumonline.com/berita/a/mengenal-restorative-justice-lt62b063989c193/
23. https://media.neliti.com/media/publications/10603-ID-analisis-terhadap-peraturan-mahkamah-agung-nomor-2-tahun-2012-tentang-penyesuaia.pdf, diakses pada hari Selasa tanggal 27 Desember 2022
24. https://www.hukumonline.com/klinik/a/tindak-pidana-ringan-tipiring-lt5876e928ba1b4, diakses pada tanggal 27 Desember 2022
25. https://itbox.id/
26. https://www.ntt-review.jp/
27. https://ars.els-cdn.com/