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RESTORATIVE JUSTICE APPROACH TO VICTIM OF GENDER VIOLENCE

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Abstract

Gender-based violence is a form of human rights violation that impacts not only the physical health of victims but also their psychological, social, and economic well-being. To date, the handling of gender-based violence cases in the criminal justice system has tended to focus on punishing the perpetrator, while the victims' recovery needs are often under-recognized. Therefore, the restorative justice approach presents an alternative that emphasizes recovery, dialogue, and the perpetrator's responsibility for the impact of their actions.

This study aims to analyze the application of the restorative justice approach to the protection and recovery of victims of gender-based violence and to examine its relevance within the Indonesian legal system. The research method used is normative legal research with a legislative and conceptual approach, supported by a literature review related to gender-based violence and restorative justice policy.

The results indicate that restorative justice has the potential to provide a safer space for victims to share their experiences, gain recognition for their suffering, and obtain just redress. However, its application to cases of gender-based violence requires caution, particularly to prevent re-victimization, unequal power relations, and pressure on victims. Therefore, the implementation of restorative justice must be accompanied by principles of victim protection, professional assistance, and clear regulations. This study concludes that a restorative justice approach can be a complementary instrument in addressing gender-based violence as long as it is placed within the framework of protecting victims' rights and does not neglect law enforcement against perpetrators.

Keywords: Restorative justice, gender violence, victim protection, criminal justice system.

A. INTRODUCTION

Gender-based violence is a serious problem that remains a major challenge in law enforcement and human rights protection, both at the national and global levels. This violence encompasses various forms of harm that harm individuals based on their gender identity or role, such as physical, psychological, sexual, economic, and other forms of discrimination. In Indonesia, cases of gender-based violence remain high, occurring in domestic settings, workplaces, educational settings, and digital spaces. This phenomenon demonstrates that gender-based violence is not only individual but also structural, influenced by a patriarchal culture, unequal power relations, and weak victim protection mechanisms. (Arief, B. N, 2018).

The impact of gender-based violence extends beyond physical injury; it also causes psychological trauma, loss of security, damaged social relationships, and economic disempowerment. In many cases, victims experience social stigma, family pressure, and even threats from perpetrators, making them reluctant to report their experiences. This situation results in many cases of gender-based violence going unreported (a dark figure for crimes). Therefore, the legal system is required not only to punish perpetrators but also to ensure the recovery, protection, and empowerment of victims.

However, in practice, the conventional criminal justice system is still dominated by a retributive approach focused on punishing the perpetrator. This orientation often positions victims as mere witnesses or evidence. Lengthy legal processes, repeated examinations, and rigid procedures have the potential to cause new suffering for victims (re-victimization). Victims often feel alienated from the legal process, which should provide a sense of justice and security. As a result, the justice obtained is more formal, while substantive justice for victims remains elusive.

The development of modern legal thought has given rise to the restorative justice approach as an alternative paradigm in resolving criminal cases. This approach emphasizes the restoration of the victim's well-being, the accountability of the perpetrator, and community involvement in conflict resolution. Restorative justice focuses not only on the violation of the law but also on the harm suffered by the victim and how it can be fairly redressed. This concept positions the victim as the primary subject with the right to be heard, protected, and rehabilitated.

In the context of gender-based violence, a restorative justice approach offers an opportunity to create space for dialogue, acknowledge the victim's suffering, and provide a more humane recovery. Victims not only seek punishment for the perpetrator, but also gain a sense of justice through accountability, an apology, compensation, psychological rehabilitation, and guarantees of non-recurrence. Thus, restorative justice can be a means to restore the victim's dignity and repair social relationships damaged by violence.

However, the application of restorative justice to cases of gender violence cannot be done simply. Gender violence generally occurs in unequal relationships, whether economic, social, or psychological, between the perpetrator and the victim. This power relationship has the potential to cause pressure, intimidation, or even forced reconciliation of victims. In some practices, reconciliation is used as a tool to halt the legal process without considering the safety and interests of the victim. If not properly monitored, restorative justice can actually benefit the perpetrator and weaken the victim's position.

Furthermore, there are still differences in understanding among law enforcement officials regarding the boundaries of cases that are eligible for resolution through a restorative justice approach. Not all cases of gender violence have clear guidelines for its application. This creates legal uncertainty and the potential for abuse of authority. Therefore, a clear normative framework and mechanisms are needed to ensure that the application of restorative justice remains on the side of victims, ensures their safety, and does not diminish the element of criminal accountability of perpetrators.

On the other hand, developments in national regulations indicate a trend toward accommodating the victim recovery approach. Some law enforcement policies are beginning to incorporate restorative justice values in the resolution of criminal cases. However, in the practice of gender violence, this approach still requires strengthening in terms of regulations, human resources, victim advocacy, and synergy between institutions. Without such preparedness, restorative justice will remain mere jargon without providing real protection for victims.

Given this situation, a study of the restorative justice approach for victims of gender violence is crucial. This research aims not only to examine its potential benefits but also to analyze the risks, limitations, and principles that must be maintained to prevent new injustices. With the right approach, restorative justice is expected to complement a criminal justice system that is more humane, just, and pro-victims of gender violence.

Given this background, the question arises: How is restorative justice implemented in the Indonesian criminal justice system in cases of gender violence.

B. LITERATURE REVIEW

1. Definition of Restorative Justice

Restorative justice is an approach to resolving criminal cases that emphasizes restoring the damaged situation caused by the crime, rather than solely punishing the perpetrator. Unlike the conventional criminal justice system, which focuses on retributive justice, restorative justice positions crime as an act that causes harm to individuals, social relationships, and society. Therefore, the primary focus of this approach is how these harms can be repaired through the involvement of the victim, the perpetrator, and the community. In restorative justice, victims are no longer positioned merely as witnesses, but rather as subjects with the right to be heard, protected, and rehabilitated. Perpetrators are not merely punished but are encouraged to take moral and social responsibility for their actions. Furthermore, the community is involved as part of the conflict resolution process so that disturbed social relationships can be restored. Thus, restorative justice is oriented toward substantive and humanistic justice.

2. Philosophical Basis of Restorative Justice

Philosophically, restorative justice is based on the view that crime is not only a violation of state law, but also a violation of human rights and social relationships. This approach emphasizes the values of humanity, balance, responsibility, and the restoration of the victim's dignity. The primary goal of justice is not merely imposing punishment, but also restoring disturbed harmony within society. Restorative justice is also influenced by the values of deliberation, reconciliation, and peaceful conflict resolution, which have long been recognized in customary law and local wisdom. In the Indonesian context, these values align with Pancasila, particularly the principles of just and civilized humanity and social justice. Therefore, the application of

restorative justice does not conflict with national legal values but rather strengthens a just and humane legal orientation.

3. Principles of Restorative Justice

There are several key principles in the restorative justice approach. First, voluntary participation, meaning that both the victim and the perpetrator participate without coercion. Second, victim protection, meaning that the victim's safety, dignity, and interests must be a top priority. Third, the perpetrator's responsibility, meaning the perpetrator acknowledges his or her mistake and is willing to correct the consequences of his or her actions. Fourth, dialogue and deliberation, as a means to reach a fair agreement. Fifth, restitution, which includes compensation, rehabilitation, and guarantees against recurrence. Furthermore, restorative justice emphasizes the principles of proportionality and balance, ensuring that the resolution of the case does not harm either party. This process must be transparent, accountable, and supervised by professional officials or mediators to prevent abuse or pressure on the victim.

4. Forms and Mechanisms of Restorative Justice

In practice, restorative justice can be implemented through various mechanisms, such as penal mediation, family group conferencing, victim-offender mediation, and community-based recovery agreements. These mechanisms aim to bring the victim and perpetrator together in a safe atmosphere to discuss the impact of the act, the victim's needs, and the perpetrator's responsibilities. The outcome of the restorative justice process usually takes the form of an agreement that includes an apology, compensation, social services, rehabilitation, or other forms of reparation. This agreement must be reached consciously and free from coercion. In modern legal systems, the results of restorative justice can also form the basis for dismissal of a case or a judge's consideration in issuing a verdict.

5. Benefits of Restorative Justice

The restorative justice approach offers several benefits. For victims, this approach provides a space to be heard, healed, and achieve the satisfaction of justice. For perpetrators, restorative justice promotes awareness, accountability, and social reintegration. For the community, this approach strengthens social harmony and prevents recurrent conflict.

Furthermore, restorative justice contributes to the efficiency of the criminal justice system, reducing case backlogs and reducing recidivism rates. Therefore, this approach is not only beneficial individually but also structurally for the legal system.

6. Definition of Victims of Gender Violence

Victims of gender violence are individuals who experience physical, psychological, sexual, economic, or social suffering due to acts of violence based on gender differences or inequalities. Gender-based violence arises from an unequal power relationship between the perpetrator and the victim, which leaves one party in a weak and vulnerable position to harm, control, or discrimination. Victims of gender violence are generally women and children, but in principle, anyone can become a victim, including men and members of gender minorities. Gender violence occurs not only in private spaces such as households, but also in public spaces, workplaces, educational institutions, and even in the digital space through technology-based violence.

Gender violence takes various forms, including:

- a. Physical violence, such as beatings, torture, neglect, or acts that cause bodily harm.
- b. Psychological violence, in the form of threats, intimidation, insults, control, or treatment that damages the victim's mental state.
- c. Sexual violence, such as harassment, rape, sexual exploitation, forced sexual intercourse, and sexual slavery.
- d. Economic violence, which limits a victim's access to economic resources, employment, or finances.
- e. Technology-based violence, such as the unauthorized distribution of intimate content, digital stalking, and online harassment.

These forms are often interconnected and experienced by victims repeatedly over long periods of time. Gender violence does not emerge suddenly but is influenced by various factors, including patriarchal culture, gender stereotypes, economic inequality, low legal awareness, and weak social protection. Unequal power relations between perpetrators and victims are the root cause of violence, where perpetrators feel they have control over the victim. Furthermore, environmental factors, past trauma, alcohol or drug use, and the normalization of violence in society also increase the risk of gender violence. Therefore, victim care cannot be separated from structural prevention efforts.

The impact of gender-based violence on victims is extensive, including:

- a. Physical impacts, such as injury, disability, health problems, and even death.
- b. Psychological impacts, such as trauma, depression, anxiety, fear, loss of self-confidence, and post-traumatic stress disorder (PTSD).
- c. Social impacts, such as stigma, social isolation, dropping out of school, or job loss.
- d. Economic impacts, such as financial dependence, poverty, and loss of access to resources.

These impacts are often long-lasting and prevent victims from resuming normal lives.

In conventional criminal justice systems, victims are often positioned as witnesses, not as subjects whose rights must be restored. Lengthy and procedural legal processes often lead to psychological exhaustion. Victims can even experience re-victimization due to repeated examinations, negative questioning, and social pressure from their environment. Therefore, modern legal systems are shifting their paradigm from simply punishing perpetrators to protecting and rehabilitating victims. Victims have the right to security, legal assistance, psychological services, restitution, and participation in the law enforcement process.

7. Protection for Victims of Gender-Based Violence

Protection for victims of gender-based violence encompasses prevention, treatment, and recovery. This protection includes safety guarantees, health services, psychological rehabilitation, legal aid, and social reintegration. The state, law enforcement officials, and the community share a shared responsibility to ensure victims are not subjected to violence again. Furthermore, modern approaches emphasize the importance of a victim-centered perspective, namely, treatment that respects the dignity, needs, and interests of victims. In

this context, victims are not merely viewed as objects of the legal process, but as human beings who must be fully restored.

Gender-based violence is a social and legal phenomenon that remains a serious problem in various countries, including Indonesia. This violence not only attacks the victim's body but also undermines their dignity, sense of security, and human rights. The phenomenon of gender violence arises from unequal power relations between men and women, as well as between majority and minority gender groups. This inequality gives rise to discriminatory practices that place victims in a position of weakness and vulnerability to various forms of violence.

Victims of gender-based violence often experience multiple layers of suffering. In addition to physical injuries and psychological trauma, victims also face social stigma, family pressure, and barriers to accessing justice. Many victims choose to remain silent due to fear, shame, or distrust of the legal system. As a result, gender-based violence is a phenomenon whose true numbers are far greater than recorded data. Therefore, discussing victims of gender-based violence is crucial for building awareness, providing protection, and providing just recovery.

Victims of gender-based violence are individuals who experience suffering or harm as a result of acts of violence based on gender identity, roles, or relations. This violence does not arise in a neutral manner, but rather arises from social structures that place one gender above the other. In this context, victims not only experience unlawful acts but also experience symbolic oppression that demeans their human dignity. (Marshall, T. F. (1999).

Characteristics of victims of gender-based violence include being in an unequal power relationship, being economically or emotionally dependent on the perpetrator, and having limited access to legal protection. Victims are often trapped in a cycle of violence that is difficult to break due to social, cultural, or family pressures. In many cases, victims are also blamed for the violence they experience, further exacerbating their psychological and social conditions. Victims of gender-based violence are not limited to women; they can also be men, children, people with disabilities, and gender minority groups. However, empirically, women and children remain the most vulnerable groups due to deeply rooted patriarchal social and cultural construct.

8. Forms and Patterns of Gender Violence Against Victims

Gender violence against victims takes various forms, often occurring repeatedly and systematically. First, physical violence includes beatings, torture, abuse, neglect, and other acts that cause injury or health problems. Second, psychological violence includes threats, insults, manipulation, controlling behavior, and actions that damage the victim's self-esteem. Third, sexual violence includes harassment, rape, sexual exploitation, forced sexual intercourse, and human trafficking for sexual purposes. Sexual violence is one of the most severe forms because it affects the victim's body, dignity, and right to personal integrity. Fourth, economic violence involves restricting the victim's access to employment, finances, education, or resources, making the victim dependent on the perpetrator. Fifth, technology-based violence includes online stalking, the non-consensual distribution of intimate content, digital threats, and harassment on social media. These patterns of violence are evolving with technological advances and are often difficult to detect, but they have a significant psychological impact on victims. (Waluyo, B. 2011)

Gender-based violence is an act that harms a person physically, psychologically, sexually, economically, or socially, rooted in unequal power relations between the perpetrator and the victim. This violence does not occur in isolation but often occurs repeatedly and forms a systematic pattern. Understanding the forms and patterns of gender violence is crucial for identifying risks, impacts, and appropriate protection models for victims. (Achjani Zulfa, E. 2011).

Forms of violence include:

a. Physical Violence

Physical violence is the most easily recognized form of violence because it causes bodily harm to the victim. It includes beatings, kicking, torture, strangulation, neglect, and the use of weapons or dangerous objects. Physical violence not only causes injury but also creates a deep sense of fear in the victim. In many cases, physical violence becomes a gateway to other forms of violence, such as psychological and sexual violence, resulting in the victim experiencing multiple layers of suffering.

b. Psychological Violence

Psychological violence relates to actions that damage the victim's mental and emotional well-being. It takes forms such as threats, intimidation, insults, controlling behavior, manipulation, and prohibiting the victim from interacting with their social environment. Psychological violence is often invisible to the naked eye, but its impact is very serious, such as loss of self-confidence, trauma, anxiety, and depression. The pattern of psychological violence is usually ongoing and aims to weaken the victim's position and force them to submit to the perpetrator.

c. Sexual Violence

Sexual violence is a form of gender-based violence that touches the most personal aspects of the victim. It can take various forms, including sexual harassment, rape, forced sexual intercourse, sexual exploitation, sexual slavery, and even human trafficking for sexual purposes. Sexual violence often occurs in close relationships, such as within a household, a relationship, or the workplace. The pattern is characterized by the perpetrator's domination and control over the victim's body and choices, resulting in the victim losing their autonomy.

d. Economic Violence

Economic violence occurs when the perpetrator limits or controls the victim's access to economic resources. For example, prohibiting the victim from working, taking the victim's income, unilaterally controlling their finances, or neglecting the victim's economic needs. The pattern of economic violence aims to create dependence on the perpetrator. This dependence makes it difficult for the victim to leave the abusive relationship because they lack financial independence.

e. Social and Discrimination Violence

Social violence manifests itself in the form of exclusion, humiliation, negative labeling, and discriminatory treatment of victims. Victims may be separated from their family, friends, or community. In this pattern, perpetrators attempt to destroy the victim's social network so that they feel alone and without support. Social violence is often exacerbated by a culture of victim blaming, which discourages victims from reporting.

f. Technology-Based Violence

With the advancement of digital technology, gender-based violence also occurs in cyberspace. This includes digital stalking, online

harassment, threats via social media, the distribution of intimate content without consent, and sextortion. This pattern of violence is widespread and rapidly spreading, so its impact is not only experienced personally but also publicly. Technology-based violence often prolongs the suffering of victims because digital traces are difficult to erase.

g. Repetitive and Systematic Patterns of Violence

These forms of gender-based violence generally occur more frequently than just a single incident, but are repeated and form a cycle of violence. This pattern typically begins with tension, followed by acts of violence, followed by a phase of regret or apparent reconciliation by the perpetrator. Afterward, the violence recurs with greater intensity. This cyclical pattern traps the victim in an abusive relationship, making it difficult to escape.

h. Power Relations as the Primary Pattern of Gender Violence

The primary pattern of gender violence is the unequal power relations between the perpetrator and the victim. Perpetrators exploit their economic, social, psychological, or cultural positions to control the victim. This power relationship leaves the victim in a subordinate position and restricted from making choices. Therefore, addressing gender violence requires more than simply stopping the act; it must also break the power relations that perpetuate the violence.

By understanding the forms and patterns of gender violence against victims, law enforcement officials, academics, and the community can develop more effective prevention and protection strategies. Gender violence is not just an individual event, but a systemic phenomenon that requires an integrated legal, social, and cultural approach. (Zehr, H. 2002).

9. Protection and Recovery for Victims of Gender-Based Violence

Protection for victims of gender-based violence encompasses preventive, repressive, and rehabilitative aspects. The state is responsible for providing safe reporting mechanisms, health services, safe houses (shelters), legal assistance, and psychosocial rehabilitation. Victim recovery also includes social reintegration and economic empowerment to prevent victims from returning to the cycle of violence. Furthermore, the role of the community and social institutions is crucial in creating a supportive environment for victims. Stigma and the culture of victim-blaming must be eliminated so that victims have the courage to report and obtain justice. (Umbreit, M. S., Coates, R. B., & Vos, B. (2004)

Victims of gender-based violence are the ones most impacted physically, psychologically, socially, and economically by the violence they experience. Therefore, handling victims should not stop at taking action against the perpetrators but must include comprehensive protection and recovery. Protection and recovery for victims of gender-based violence are an integral part of fulfilling human rights and the state's obligation to ensure a sense of security and justice for its citizens.

Victim protection encompasses all efforts to ensure the safety, dignity, and rights of victims, from the reporting stage through the legal process, to post-case resolution. This protection aims to prevent victims from experiencing further violence or re-victimization. In the context of gender-based violence, protection must be victim-centered, prioritizing the needs and interests of the victim. This protection

includes ensuring physical security, confidentiality, legal assistance, access to health services, and psychological support. It also includes providing safe housing (shelter) for victims whose safety is threatened, particularly in cases of violence within close relationships such as domestic or romantic relationships.

Legal protection for victims of gender-based violence includes the right to report, obtain legal assistance, and participate in the judicial process. Victims have the right to clear information regarding the legal process, humane treatment, and freedom from intimidation or pressure, whether from the perpetrator or any other party. In the modern justice system, victims are no longer positioned merely as evidence, but as subjects whose rights must be respected. Law enforcement officials are obligated to create a safe and gender-sensitive examination environment to prevent victims from experiencing re-traumatization. This approach is crucial to ensuring victims receive substantial justice, not merely procedural justice. (Braithwaite, J. 1989)

Recovery for victims of gender-based violence encompasses not only legal aspects but also psychological and social aspects. Trauma resulting from violence often requires long-term treatment through counseling, psychological therapy, and social support. This recovery aims to help victims regain their self-confidence, sense of security, and ability to lead a normal life.

In addition to psychological recovery, social recovery is also crucial so that victims can re-interact with their environment without stigma and discrimination. Social reintegration is achieved through community education, strengthening social networks, and empowering victims to prevent them from returning to vulnerable positions.

10. Economic Recovery and Victim Empowerment

Many victims of gender-based violence experience economic dependence on their perpetrators. Therefore, economic recovery is a crucial part of the victim's recovery process. This includes access to employment, skills training, business capital assistance, and restitution or compensation for losses suffered by the victim. Economic empowerment aims to ensure victims achieve financial independence, enabling them to make independent decisions and avoid re-entrapment in the cycle of violence. With economic independence, victims have a stronger bargaining position in social and legal matters.

Protection and recovery for victims of gender-based violence cannot be achieved in isolation. The state has a primary obligation to provide regulations, policies, and facilities that support victim protection. Law enforcement officials, health workers, psychologists, and social workers must work together to provide integrated services for victims. In addition to the state, society also plays a crucial role in creating a safe and supportive environment for victims. Stigma, a culture of victim-blaming, and tolerance for violence must be eradicated. Family and community support are crucial factors in encouraging victims to report and undergo the recovery process.

C. CONCLUSION

The restorative justice approach is an important alternative in handling cases of gender violence because it focuses not only on punishing the perpetrator but also on the victim's comprehensive recovery. Through fair, participatory, and victim-centered dialogue, this approach provides a space for victims to share their experiences, gain recognition for their suffering, and achieve psychological, social, and economic recovery. In the context of gender violence, restorative justice can foster a more humane sense of justice, reduce trauma, and

encourage real accountability for perpetrators. This process also strengthens the role of the community in creating a safe and supportive environment for victims, while preventing recurrence of violence. However, the implementation of restorative justice must be carried out carefully, prioritizing the protection of victims' rights, voluntary consent, and strict legal oversight. With synergy between law enforcement officials, social institutions, and the community, this approach can be an effective strategy for achieving justice that is not only legal but also restores the dignity and well-being of victims of gender violence.

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