

Restorative Justice Settlement of Fraud Crime Case (A Case Study in The North Kuta Badung Police Sector)

I Made Guna Wijaya¹, I Made Mulyawan Subawa², Ni Ketut Wiratny³
Mahendradatta University

Corresponding Author: I Made Guna Wijaya madeguna82@gmail.com

ARTICLE INFO

Keywords: Restorative Justice, Crime, Fraud

Received : 7 July

Revised : 15 July

Accepted: 22 August

©2024 Wijaya, Subawa, Wiratny: This is an open-access article distributed under the terms of the [Creative Commons Attribution 4.0 International](https://creativecommons.org/licenses/by/4.0/).



ABSTRACT

Restorative justice is an approach in law enforcement that focuses more on recovery and reconciliation between perpetrators, victims, and the community rather than just imposing penalties to repair the social and emotional impact of criminal acts and rebuild damaged relationships. Settlement through restorative justice in its application there is still a conflict of legal norms between the Criminal Code and Perkap Number 8 of 2021 concerning handling criminal acts based on restorative justice in criminal law enforcement in Indonesia, this is because the article to ensnare the perpetrators of fraud is already available and only needs to be implemented, but the reality in the field is that there is still a vital justice approach, even though there have been peace efforts that should have stopped the investigation but the investigators are continuing because settlement through restorative justice cannot necessarily eliminate investigations and or investigations. The problem in this study is the settlement of restorative justice against fraud cases in the North Kuta Sector Police and the obstacles faced in the settlement through restorative justice against fraud cases

INTRODUCTION

Law is a collection of rules consisting of norms and sanctions. Law is a whole of methods and principles that regulate order which includes institutions and processes to realize the enactment of the law as a reality in society in other words it can be said that law is a rule or order that has value to maintain and regulate the behavior of society, and the government of a country to do and not to do something, the law is intended to maintain order and avoid chaos in a country.

The issue of justice and human rights in relation to criminal law enforcement is not an easy task to be realized. One example of the lack of attention to justice and human rights issues in criminal law enforcement is related to the legal protection of victims. Victims are those who suffer physically and mentally as a result of the actions of others who seek the fulfillment of themselves or others against the interests and human rights of those who suffer. Victims of crime, who are essentially the party that suffers the most in a criminal offense, do not receive the protection mandated by law. As a result, when the perpetrators of crimes have been sentenced to criminal sanctions by the court, the condition of crime victims seems to be completely ignored.

The law of criminal procedure and punishment in Indonesia has regulated the formal procedures that must be followed in resolving a criminal case. Unfortunately, the formal system in practice is often used as a repressive tool for law enforcers. It should be remembered that once again it is not necessarily that legal certainty is always used in the legal system, especially criminal procedural law, but there needs to be a justice approach in criminal procedural law.

An example of a case that occurred in the North Kuta Police area, about two foreign tourists who were accused of cheating the Villa owner. The two sides of the two tourists and the Villa owner have actually reconciled, but the police in the guise of law enforcement attributes prefer to continue the case until it reaches the court, a clear example where the formal criminal system has been used as a repressive tool without considering the interests of the victim and the perpetrator, followed by a motorcycle rental case where the motorcycle renter has cheated the rental owner who deliberately pawned the motorcycle to a third party, the rampant sale of mobile phones (cellphones) to foreign tourists with many products sold in fact the physical cellphones purchased are not suitable.

The criminal justice system in Indonesia is still far from what is expected by the Indonesian people in terms of upholding the values of justice and providing protection for human rights. The criminal justice system does not provide protection and respect for the interests of the victim or perpetrator, it is a conventional mechanism that is based on the enforcement of the formal criminal process without looking at the reality in society and the interests of the community.

From what is described above regarding the criminal justice system in Indonesia, in this case there is a need for a restorative justice approach in handling criminal cases at this time. The background of restorative justice arises as a response to criticism of the conventional criminal system which focuses on punishment and pays less attention to the recovery of victims and the

reintegration of offenders into society. The restorative justice movement emphasizes conflict resolution and the restoration of disrupted relationships. The background involves a desire to create a legal system that is more just, responsive to the needs of victims, and focused on rehabilitation and offender responsibility. This approach emphasizes dialogue, active participation of all parties involved, and community restoration as important elements in the handling of conflict and crime.

Restorative justice is very well established in criminal justice in Indonesia. The legal basis for the handling of Restorative Justice is regulated in the Regulation of the Indonesian National Police Number 8 of 2021 concerning Handling Crimes Based on Restorative. Restorative justice can be said to be almost the same as mediation in civil cases. The goal is also the same, namely to bring together the two parties to the case so that they take the path of peace rather than having to continue to go to trial. Restorative justice is outlined so that every law enforcement officer, victim and perpetrator of crime seeks deliberation first in resolving a criminal law problem. Actually, restorative justice is to create a peaceful way for the two conflicting parties and the laws and regulations give freedom to make these efforts.

LITERATURE REVIEW

We see that although the Indonesian Police Regulation Number 8 of 2021 concerning Handling Crimes Based on Restorative gives freedom to make restorative justice efforts, in reality not many people have taken it. Whereas restorative justice invites every litigant to make peace. The legal system is getting worse if peace is not sought in the process. Not to mention that the law is still blunt to the top and sharp to the bottom. The law still favors the wealthy, which makes the portrait of the law even worse. The view of the legal community has not really radiated certainty, justice and expediency. The law has not really been upheld as envisioned. The law must be fair and impartial. In other words, balanced to anyone who does wrong. Currently, there are often cases against oppressed people, but restorative justice efforts are not taken.

Another case that occurred in the North Kuta Police Sector was a criminal act committed by Andrey Nikonov (25), a Russian citizen, with the chronology initially the victim Ida Bagus Eka Maha Putra (37) for a sale and purchase transaction for an iPhone 12 Pro Max cellphone for Rp. 3 million on Tuesday, April 19, 2023 at around 00.30 WITA. After completing the transaction, the victim returned to his house. Arriving home, the victim finally found out that the cellphone was empty so it did not match the ad description. Therefore, the victim felt lied to by the perpetrator. Although he was reported to the North Kuta Police on suspicion of fraud, the Russian bule who lives at Red Dorz Jalan Raya Seminyak, Kuta District, Badung Regency, Bali was released. the victim named Ida Bagus Eka Maha Putra (37) did not continue the case to criminal action after the money was returned by the reported through a Restorative Justice settlement.

In this case the author will review further the emphasis of restorative justice which will be outlined in this thesis research, namely related to the application of restorative justice in terms of criminal acts of fraud, especially

those that occur in the area of the North Kuta Badung Police Sector. Indeed, if we lead to legal certainty, the crime of fraud is a prohibited act and if committed, it will certainly be subject to criminal sanctions in accordance with applicable law. However, it should be noted that not all cases or settlements of criminal acts of fraud are resolved through legal certainty mechanisms but rather the restorative justice approach.

Based on the above background, the author formulates the problem, among others, how is the settlement of restorative justice against fraud cases in the North Kuta Badung Police Sector and the obstacles faced in the settlement through restorative justice against fraud cases in the North Kuta Badung Police Sector.

METHODOLOGY

The research method in this writing uses a type of normative legal writing that is supported by conducting research through field observations in the form of interviews, where the research is then compared with the concepts contained in the library materials used and the laws and regulations as a legal basis in solving problems. Thus, it is not only limited to studying articles, laws and regulations and the opinions of experts to be later described, but also using materials that are normative in nature in order to process and analyze data from the field presented as a discussion. Sources of legal materials obtained from primary legal materials include Regulation of the Chief of the Indonesian National Police Number 6 of 2019 concerning Criminal Investigation and Regulation of the Chief of the Indonesian National Police Number 8 of 2021 concerning Handling criminal offenses based on restorative justice. Secondary legal materials, namely materials that provide explanations of primary legal materials, including literature, books, and various other scientific papers and tertiary legal materials, namely materials that provide instructions and explanations for primary and secondary legal materials, consisting of articles, legal dictionaries, and the internet

RESULTS AND DISCUSSION

Restorative Justice Settlement of Fraud Case in Kuta Utara Badung Police Sector

Restorative justice is a settlement process that is carried out outside the criminal justice system (Criminal Justice System) by involving victims, perpetrators, families of victims and perpetrators, the community and parties with an interest in a criminal act that occurred to reach an agreement and settlement based on the Regulation of the Chief of the Indonesian National Police Number 8 of 2021 concerning Handling criminal acts based on restorative justice. Restorative justice is a fair settlement that involves the perpetrator, victim, their families and other parties involved in a criminal act, jointly seeking a solution to the criminal act and its implications, by emphasizing recovery rather than retaliation.

In general, the application of restorative justice emphasizes the pure willingness of the perpetrator to repair the harm he has caused as a form of responsibility. The repair of losses must be proportional by taking into account the rights and needs of the victim. To produce an agreement between the parties, in this case the victim and the perpetrator, it is necessary to conduct informal dialogues such as mediation and deliberation.

The application of restorative justice settlement in the Kuta Utara Badung Police Sector against the perpetrators of criminal acts was initially carried out in the process of resolving violations of the law that occurred by the perpetrators by sitting together in one meeting to talk together. In the meeting, the police as a mediator provided an opportunity for the perpetrator to provide a clear description of the actions he had taken.

The perpetrator who made the presentation really hoped that the victim would be able to accept and understand the conditions and reasons why the perpetrator committed a criminal act that caused harm to the victim. Furthermore, in the explanation the perpetrator also explained how he was responsible to the victim for his actions. While the perpetrator is explaining the actions he/she has taken and the reasons why the perpetrator committed these acts, the victim must listen carefully to the perpetrator's explanation. The victim can then respond to the perpetrator's explanation.

The author argues that the implementation of a restorative justice approach in the crime of fraud is something that can actually be said to be inappropriate in terms of its resolution, because as we know fraud is a criminal act that uses deception in carrying out these lies, the impact is certainly very large causing harm to victims, such as if we take an example of a victim of fraud who turns out that the perpetrator claims to be a friend of the victim but is not and the victim complies with all the wishes of the perpetrator. As an example of criminal acts of fraud that often occur in the jurisdiction of the North Kuta Police, among others: Motorcycle Rental Fraud and Embezzlement committed by local or foreign people, Villa Rental Fraud paid with Blank Checks, Electronic Goods Purchase Fraud such as cellphones (iPad) not in accordance with the conditions of purchase.

That in its application, the restorative justice approach can be said that there is still a conflict of legal norms between the Criminal Code and Perkap in

criminal law enforcement in Indonesia, this is because the article to ensnare the perpetrators of fraud is already available and only needs to be implemented, but the reality in the field is that there is still a restorative justice approach being taken, even though restorative justice has been carried out and there has been peace which should have stopped the investigation but the investigator is still continuing, this is because from the results of an interview with Adjunct Police Inspector One (AIPTU) Suroto as the Criminal Investigation Unit Officer of the North Kuta Sector Police, on April 28, 2024 which explained that settlement through restorative justice is not necessarily able to eliminate investigations and or investigations.

The restorative justice approach in resolving crimes committed by perpetrators of fraud and embezzlement in the Kuta Utara Badung Police Sector is resolved through a restorative justice approach, where the legal settlement process is carried out by bringing victims and perpetrators (suspects) together to sit in one meeting to jointly talk about the restorative justice model process where the role of the police is as a mediator, facilitator, or supervisor.

The process of restorative justice is carried out with the police will show the articles and statutory provisions for the actions of the perpetrator and also the elements that can be applied to the application of restorative justice, then the community is invited to find the best solution so that there is a process of repair, rapprochement, conciliation and reconciliation between the victim and the perpetrator, the victim's family and the perpetrator's family, with community acceptance of the perpetrator without any stigmatization of the perpetrator.

Based on the results of the research in the settlement carried out with a restorative justice approach in the North Kuta Badung Police Sector is a mediation process in accordance with the habit of deliberation, in the application of the principle of restorative justice in the North Kuta Badung Police Sector carried out by the police, namely through activities such as mediation of victims with perpetrators, deliberation, family groups, which is restorative for both the victim and the perpetrator where the involvement in the settlement process is the victim and the perpetrator as well as a third party, namely the police who become mediators and facilitators to mediate between the two parties to reach an agreement and the goal to be achieved through the deliberation process is to restore all losses and injuries that have been caused by the fraud incident. The form of the Restorative Justice implementation mechanism by the North Kuta Sector Police, based on the results of an interview with Aiptu Suroto as the Criminal Investigation Unit Officer of the North Kuta Sector Police, on April 28, 2024:

Through police deliberation, meaning that the parties involved in this process are the police, the perpetrator and the victim. The types of criminal offenses that can be resolved through this mechanism are generally offenses and minor crimes. When the police find out that a criminal offense has occurred either directly (caught red-handed) or through a report or complaint from the victim or the community, then at that time the police can also summon the perpetrator suspected of committing a criminal offense to be questioned about the actions he has committed. The police provide an opportunity for the perpetrator to tell

clearly and completely about the actions he has committed. After the police listen to the testimony of the perpetrator.

Then the police can conclude whether the perpetrator is guilty of committing the alleged crime. If the perpetrator is not proven then the police must release him, but if the perpetrator is proven guilty, then the police can sanction the perpetrator. The police can immediately impose sanctions if the perpetrator has admitted his actions. Actions that can be given by the police to perpetrators who commit criminal offenses are informal warnings. Informal warnings are in the form of verbal warnings and written warnings. Oral warnings are in the form of giving advice to children not to commit criminal acts again and stay away from negative actions. Meanwhile, a written warning is a hard warning, not just giving advice but the perpetrator is given a hard warning, one of which is that the perpetrator must apologize to the victim.

Informal warnings can only be given to first-time offenders (not repeat offenders) and do not require the consent of the victim or his/her family if the victim is a minor. The informal warning is not recorded in an agreement and does not need to be requested to the district court.

Family deliberation means that the parties involved in the Restorative Justice process are the police, the perpetrator and the victim. The types of crimes that can be resolved through this mechanism are minor crimes, victimless crimes and crimes where the value of the victim's loss does not exceed the value of the minimum wage of the local province.

Through community deliberation means that the parties involved in this process are the police, the perpetrator and/or and the community. The types of criminal offenses that can be resolved through community deliberation are criminal offenses that carry a penalty of less than 7 (seven) years and are not repeat offenses.

Criminal law responsibility can be equated with the notion of guilt in its broadest sense. Based on an interview with Adjunct Police Inspector One (AIPTU) Made Dwitamasuta as Bintara Unit (Banit) Criminal Investigation Unit of the North Kuta Sector Police, on April 28, 2024 criminal liability for the crime of fraud consists of:

The existence of the capacity for responsibility in the perpetrator, meaning that the mental state of the perpetrator must be normal.

A mental connection between the perpetrator and the act in the form of intent (*dolus*) or negligence (*culpa*).

The absence of reasons that erase guilt or the absence of excuses.

A maker in question is a person as a legal subject, in terms of criminal liability there are 2 (two) categories of people as wrongdoers, namely people who are capable of being responsible where they are physically and mentally healthy and people who are unable to take responsibility for their mistakes. People who are unable to take responsibility for their mistakes are considered unaccountable because it has been legally proven that the person has a mental defect in growth, and the soul is disturbed due to illness.

Table 1. The Following is a Data Table of Legal Settlements and Accountability for Restorative Justice-Based Police Reports at The Kuta Utara Badung Police Sector, January 2021 to December 2023

NO	LAPORAN POLISI & PASAL YANG DI LANGGAR	JENIS TINDAK / KERUGIAN / BB	SYARAT UMUM		GELAR PERKARA KHUSUS	PENYELESAIAN
			MATERIAL	FORMAL		
TAHUN 2021						
	LP-B/12/III/2021/BALI /RES BADUNG/SEK KUTA UTARA, Tanggal 26 Februari 2021	Penipuan Pasal 378 KUHP 1. 3 unit barang 1 unit Iphone 12 Pro, 1 Unit AirPods Pro 1 Unit Apple Watch,	1. Tidak menibulkan kekerasan atau menolakan dari masyarakat rakat 2. Tidak berdampak komplik sosial 3. Pelaku tidak akan mengulangi tindak pidana	1. Perda maian dari kedua belah pihak dibuktikan dengan surat kesepakatan 2. Memenuhi hak korban tanggung jawab pelaku akibat dari tindak pidana.	Laporan hasil tindakan pidana khusus memastikan syarat umum baik materiil maupun formal khusus telah dipenuhi	a. SP3/RJ/01/IV /2021/Reskrim Tanggal 10 Maret 2021 b. SK. Sidik/10/III/2021/ Reskrim Tanggal 26 Februari 2021
	LP/B/62/X/2021/S PKT/POLSEK KUTA UTARA/POLRES BADUNG/POLDA BALI, Sabtu Tanggal 2 Oktober 2021	Penipuan 378 KUHP 1 unit sepeda motor Honda Vario, tahun 2014, warna Putih, Nomor	1. Tidak menibulkan kekerasan atau menolakan	1. Perda maian dari kedua belah pihak dibuktikan	Laporan hasil tindakan pidana khusus mema	a. SP3/RJ /19/X/2021/ Reskrim Tanggal 10 Oktober 2021 b. SK. Sidik/53 /X/2021/ Reskrim

		<p>Polisi DK-3809-FJB, Nomor Mesin JFH1E1081363, Nomor Rangka MH1JFH16EK081701, STNK NOER INDRAYAN I, Jalan Dewi Sartika Gg. Mangga No. 2, Lingk. Tuban Geriya, Tuban, Kuta, Badung</p>	<p>dari masyarakat</p> <p>2. Tidak berdam-pak kompli-k social</p> <p>3. Pelaku tidak akan mengu-langi tindak pidan-a</p>	<p>tikan dengan surat kesep-akata n</p> <p>2. Mem-enuhi hak korb-an tangg-ung jawa b pelak-u akiba-t dari tinda-k pidan-a .</p>	<p>stikan syarat umum baik materi il maup-un forma-l khusu-s telah dipen-uhi</p>	<p>Tanggal 2 Oktober 2021</p>
TAHUN 2022						
	<p>LP/B/38/IV/2022/S PKT/POLSEK KUTA UTARA/POLRES BADUNG/POLDA BALI Tanggal 4 April 2022</p>	<p>Penipuan dan Penggelapan Pasal 378 dan 372 KUHP</p> <p>1. penggelapan dana sebesar Rp 9.508.695 (Sembilan juta lima ratus delapan ribu enam ratus Sembilan puluh lima rupiah)</p>	<p>1. Tidak meni- mbulk- an keres- aan atau menol- akan dari masya- rakat</p> <p>2. Tidak berda- mpak kompli- k social</p> <p>3. Pelak- u tidak akan mengu- langi tindak- pidan- a</p>	<p>1. Perda- maia- n dari kedu- a belah pihak dibuk- tikan deng- an surat kesep- akata n</p> <p>2. Mem- enuhi hak korb- an tangg- ung jawa b pelak- u</p>	<p>Lapor- an hasil tindak- pidan- a Khusu- s mema- stikan syarat umum baik materi il maup- un forma- l khusu- s telah dipen- uhi</p>	<p>a. SP3/RJ/8 /IV/2022/Resk irim Tanggal 08 April 2022</p> <p>b. SK. Sidik/ 28/X/202/ Reskrim Tanggal 04 April 2022</p>

				akibat dari tindak pidana .		
LP/B/44/IV/2022/S PKT/POLSEK KUTA UTARA/POLRES BADUNG/POLDA BALI Tanggal 7 April 2022	Penipuan Pasal 378 KUHP 1. transfer sebesar Rp. 5.000.000 (lima juta rupiah), 2. transfer uang sebesar Rp. 17.382.000 (tujuh belas juta tiga ratus delapan puluh dua ribu rupiah) 3. terlapor kembali meminta transferan sebesar rp. 3.500.000 (tiga juta lima ratus ribu rupiah),	1. Tidak menibulk an keresa an atau menol akan dari masya rakat 2. Tidak berda mpak kompli k social 3. Pelak u tidak akan mengu langi tindak pidan a	1. Perda maia n dari kedu a belah pihak dibuk tikan deng surat kesep akata n 2. Mem enuhi hak korb an tangg ung jawa b pelak u akiba t dari tinda k pidan a .	Lapor an hasil tindak pidan a Khusu s mema stikan syarat umum baik materi il maup un forma l khusu s telah dipen uhi	a.SP3/RJ/13/IV/2 022/ Reskrim Tanggal 12 April 2022 b. SK. Sidik/33/IV/2 022/ Reskrim Tanggal 07 April 2022	
LP/B/80/IV/2022/S PKT/POLSEK KUTA UTARA/POLRES BADUNG/POLDA BALI Tanggal 26 April 2022	Penipuan Pasal 378 KUHP 1. 2 (dua) unit hp kosong : iphone warna blue safir, iphone merk california dan	1. Tidak menibulk an keresa an atau menol akan dari masya rakat	1. Perda maia n dari kedu a belah pihak dibuk tikan deng an surat	Lapor an hasil tindak pidan a Khusu s mema stikan syarat umum baik	a.SP3/RJ/17/IV/2 022/ Reskrim Tanggal 01 Mei 2022 b. SK. Sidik/38 /X/2022/ Reskrim Tanggal 26 Apeil 2022	

		<p>2. 1 (satu) buah penyemprotan/sprey mata,</p> <p>3. 1 (satu) buah tas pinggang kosong, dan sepasang sandal.</p>	<p>2. Tidak berdamai</p> <p>3. Pelaku tidak akan mengulangi tindak pidana</p>	<p>kesepakatan</p> <p>2. memenuhi hak korban tanggung jawab pelaku akibat dari tindak pidana</p>	<p>materi il</p> <p>maupun formal khusus telah dipenuhi</p>	
<p>LP/B/180/VII/2022 /SPKT/POLSEK KUTA UTARA/POLRES BADUNG/POLDA BALI Tanggal 28 Juli 2022</p>	<p>Penipuan Pasal 378 KUHP</p> <p>1. satu unit honda scoopy warna hitam coklat DK-3639-ACU dan satu unit scoopy warna abu2 Dk- 3365-FAZ</p>	<p>1. Tidak menimbulk keresaan atau menolak dari masyarakat</p> <p>2. Tidak berdamai</p> <p>3. Pelaku tidak akan mengulangi tindak pidana</p>	<p>1. Perdamaian dari kedua belah pihak dibuktikan dengan surat kesepakatan</p> <p>2. Memenuhi hak korban tanggung jawab pelaku akibat dari tindak</p>	<p>Laporan hasil tindakan pidana khusus memastikan syarat umum baik materi il maupun formal khusus telah dipenuhi</p>	<p>a.SP3/RJ/19 /VII/2022/ Reskrim Tanggal 02 Agustus 2022</p> <p>b. SK. Sidik/ 42 /VII/2022/ Reskrim Tanggal 28 Agustus 2022</p>	

				pidana .		
	<p>LP/B/178/VII/2022 /SPKT/POLSEK KUTA UTARA/POLRES BADUNG/POLDA BALI Tanggal 25 Juli 2022</p>	<p>Penipuan Pasal 378 KUHP 1. cek tunai sejumlah 56.800.000 ,-</p>	<p>1. Tidak menimbulkan keresaan atau menolak dari masyarakat 2. Tidak berdampak komplikasi sosial 3. Pelaku tidak akan mengulangi tindak pidana</p>	<p>1. Perdamaian dari kedua belah pihak dibuktikan dengan surat kesepakatan 2. Memenuhi hak korban tanggung jawab pelaku akibat tindak pidana .</p>	<p>Laporan hasil tindakan pidana Khusus memastikan syarat umum baik materiil maupun formal khusus telah dipenuhi</p>	<p>a. P3/RJ/18/VII/2022/Reskrim Tanggal 30 Juli 2022 b. SK. Sidik/40/VII/2022/ Reskrim Tanggal 25 Juli 2022</p>
	<p>LP/B/236/XI/2022/ SPKT/POLSEK KUTA UTARA/POLRES BADUNG/POLDA BALI Tanggal 15 November 2022</p>	<p>Penipuan Pasal 378 KUHP 1. Uang sebesar Rp. 8.000.000</p>	<p>1. Tidak menimbulkan keresaan atau menolak dari masyarakat 2. Tidak berdampak komplikasi</p>	<p>1. Perdamaian dari kedua belah pihak dibuktikan dengan surat kesepakatan</p>	<p>Laporan hasil tindakan pidana Khusus memastikan syarat umum baik materiil maupun</p>	<p>a. SP3/RJ/27/XI/2022/Reskrim Tanggal 20 Nopember 2022 b. SK. Sidik/88/XI/20212/ Reskrim Tanggal 16 Nopember 2022</p>

			<p>ik social</p> <p>3. Pelaku tidak akan mengulangi tindak pidana</p>	<p>2. Memenuhi hak korban tanggung jawab pelaku akibat dari tindak pidana.</p>	<p>formal khusus telah dipenuhi</p>	
TAHUN 2023						
	<p>LP/B/45/V/2023/S PKT/POLSEK KUTA UTARA/POLRES BADUNG/POLDA BALI Tanggal 16 Mei 2023</p>	<p>Penipuan Pasal 378 KUHP</p> <p>1. Sebesar RP 430.000.000 (Empat Ratus Tiga Puluh Juta Rupiah) yang katanya untuk biaya kuliah</p>	<p>1. Tidak menimbulkan keresaan atau menolak dari masyarakat</p> <p>2. Tidak berdampak kompleks social</p> <p>3. Pelaku tidak akan mengulangi tindak pidana</p>	<p>1. Perda maian dari kedua belah pihak dibuktikan dengan surat kesepakatan</p> <p>2. Memenuhi hak korban tanggung jawab pelaku akibat dari tindak pidana.</p>	<p>Laporan hasil tindak pidana khusus memastikan syarat umum baik materiil maupun formal khusus telah dipenuhi</p>	<p>a. SP3/RJ /24/V/2023/ Reskrim Tanggal 20 Mei 2023</p> <p>b. SK. Sidik/31 /V/2023/ Reskrim Tanggal 16 Oktober 2023</p>

<p>LP/B/95/IX/2023/S PKT/POLSEK KUTA UTARA/POLRES BADUNG/POLDA BALI Tanggal 4 September 2023</p>	<p>Penipuan dan Penggelapan Pasal 374 KUHP 1. sepeda motor Honda Vario NoPol DK 5860 OO ,warna Putih , Tahun 2012 , Nomor Rangka MH1JFC11 2CK060280 , Nomor mesin JFC1E1060 250</p>	<p>1. Tidak meni mbulk an keres aan atau menol akan dari masya rakat 2. Tidak berda mpak kompl ik social 3. Pelaku tidak akan mengul angi tindak pidana</p>	<p>1. Perda maia n dari kedu a belah pihak dibuk tikan deng an surat kesep akata n 2. Mem enuhi hak korb an tangg ung jawa b pelak u akiba t dari tinda k pidan a .</p>	<p>Lapor an hasil tindak pidan a Khusu s mema stikan syarat umum baik materi il maup un forma l khusu s telah dipen uhi</p>	<p>a. SP3/RJ /44/X/2023/Res krim Tanggal 8 September 2023 b. SK. Sidik/ 74/IX/2023/ Reskrim Tanggal 04 September 2023</p>
<p>LP/B/136/XI/2023/ SPKT/POLSEK KUTA UTARA/POLRES BADUNG/POLDA BALI Tanggal 10 November 2023</p>	<p>Penipuan Pasal 378 KUHP 1. Camera Sony ILCE- 6400/ILCE- 6400L, Lensa Camera Merk Sony dan 2. 1 (satu) set Drone DJI Avata Pro- View Combo</p>	<p>1. Tidak meni mbulk an keres aan atau menol akan dari masya rakat 2. Tidak berda mpak kompl ik social 3. Pelaku</p>	<p>1. Perda maia n dari kedu a belah pihak dibuk tikan deng an surat kesep akata n 2. Mem enuhi hak</p>	<p>Lapor an hasil tindak pidan a Khusu s mema stikan syarat umum baik materi il maup un forma l khusu</p>	<p>a. SP3/RJ/35/XI/2 023/Reskrim Tanggal 15 Nopember 2023 b. SK. Sidik/110/XI/20 21/ Reskrim Tanggal 10 Nopember 2023</p>

			<i>tidak akan mengulangi tindak pidana</i>	<i>korban tanggung jawab pelaku akibat dari tindak pidana .</i>	<i>s telah dipenahi</i>	
--	--	--	--	---	-------------------------	--

Based on the table of Restorative Justice-based Police reports handled by the North Kuta Police Criminal Investigation Unit and the ranks above, it can be concluded that the implementation of Restorative Justice handling, especially in the crime of Fraud, can be handled properly by the North Kuta Police investigating unit, this is evidenced by its completion in the Investigation and Investigation stages can be stopped by not submitting the case file to the Prosecutor's Office or not reaching the Court stage.

Obstacles Faced in the Settlement Through Restorative Justice of Fraud Crime Cases in the Kuta Utara Badung Police Sector

The handling of fraud cases through alternative channels (peace / withdrawal of complaints) is a type of case settlement outside the Criminal Procedure Code. Therefore, from the results of an interview with Adjunct Police Inspector One (AIPTU) I Wayan Ariana as a Unit Officer (Banit) of the Criminal Investigation Unit of the North Kuta Sector Police, on May 3, 2024, the North Kuta Sector Police Investigator used an alternative route by using Police discretion in accordance with Article 16 paragraph (1) letter i and paragraph (2) of Law Number 2 of 2002 concerning the Indonesian National Police. Settlement through alternative channels (peace / revocation of complaints) is a case settlement outside the criminal justice system.

Handling through alternative channels (peace / withdrawal of complaints) is carried out due to the initiative of the victim and the suspect who requests the withdrawal of the complaint. This is due to an agreement between the victim and the perpetrator to make peace. Then regarding the basis taken for the alternative handling (peace / withdrawal of complaints) of the fraud case was added because of the characteristics of Balinese society which strongly upholds the so-called "Karma Law". This is the reason that applies in Balinese society where in the event of a dispute, traditional leaders, community leaders, and religious leaders usually provide direction to the disputing parties. Furthermore, the disputing parties are invited to talk nicely to reconcile outside the responsibility or relationship with the Police Investigator, because it is not the Investigator's job to reconcile. It is not uncommon for Balinese litigants to say that the case has been reconciled.

From the results of the interview with Aiptu I Wayan Ariana, it was explained that Investigators of the North Kuta sector Police who are still continuing cases are often complained that the police are looking for mistakes and usually the complainant and the reported party no longer want to be examined for further filing processes. If the victim revokes the complaint report, it is also the basis for the investigator to carry out SP3 because if the complaint has been revoked, the evidence is automatically lacking. The victim who revoked the complaint report was because he had reconciled with the perpetrator.

The results of the interview with Aiptu Made Dwitamasuta, the obstacles in applying the principles of Restorative justice experienced by the Investigators of the North Kuta Police Sector include:

1. Internal barriers, although Restorative Justice has begun to be recognized as an alternative to handling children in conflict with the law from criminal justice and has begun to get the support of many parties, there are still many obstacles faced, namely:

- a) Increasing needs not matched by resources (both personnel and facilities);
- b) Lack of cooperation between the parties involved;
- c) Ethical issues and bureaucratic obstacles in exchanging data and information between law enforcement officials;
- d) There is no common perception among law enforcement officials regarding the handling of restorative justice for the best interests of the perpetrators of theft crimes;
- e) Limited facilities and infrastructure for handling cases against the law during the court process.

2. External barriers, barriers that are caused include:

- a. Lack of support and cooperation between institutions.

This problem is another obstacle that still occurs a lot in enforcing a legal provision, including the handling of fraud offenders dealing with the law, many legal professionals still consider mediation as a second-class method of seeking justice that they do not succeed in achieving justice at all,

- b. The view of the community towards criminal acts is still hindered. There is a view of society that tends to be vengeful and wants to retaliate against criminals.

Other obstacles or constraints besides those mentioned above, that in the settlement of fraud cases through restorative justice at the North Kuta Police Sector experienced obstacles where there were peace case files that were not followed up with a case title to stop the investigation. Too high workload is the reason for investigators not to process case files that have reconciled. As is known, to process a fraud case file that has led to peace, a case title for termination of investigation will be held, and the determination of termination of investigation will be made by the Head of the North Kuta Sector Police. In the event that the investigator did not process the settlement of one of the fraud case files that he was handling for the termination of investigation, then the Head of the North Kuta Sector Police did not know and the case should still be followed up by an investigation even though it had reconciled and the report had been revoked.

This is because the administrative procedure of investigation has been determined in the Regulation of the Chief of Police of the Republic of Indonesia No. 6 of 2019 concerning Criminal Investigation and for criminal offenses where there is insufficient evidence or the reported case is not a criminal offense, the investigation must be stopped.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

Based on the discussion that has been described, the following conclusions can be drawn:

1. Settlement through restorative justice in its application there is still a conflict of legal norms between the Criminal Code and Perkap Number 8 of 2021 concerning handling criminal acts based on restorative justice in criminal law enforcement in Indonesia, this is because the article to ensnare the perpetrators of fraud is already available and only needs to be implemented, but the reality in the field is that there is still a restorative justice approach being taken, even though restorative justice has been carried out and there has been peace which should have stopped the investigation but the investigator is still continuing, because settlement through restorative justice does not necessarily eliminate investigations and or investigations.
2. The settlement of fraud cases through restorative justice at the North Kuta Sector Police experienced several obstacles, among others, the Peace Case File was not followed up with a case title to stop the investigation, this was due to the workload and the number of cases handled was too high with a limited number of investigators so that it became an excuse for investigators not to process the reconciled case file.

Recommendations

Based on the description above, the suggestions that the author can convey are as follows:

1. For Law Enforcement Officials, especially North Kuta Police Investigators, it is better if in handling criminal acts (persecution) they prioritize a win-win solution, so that the case files that are being handled are not rushed into investigation, they should prioritize peace efforts by bringing together the reporting party and the reported party. The meeting aims to reconcile the parties who are litigating according to the principle of *Ultimum Remedium*, namely if a case can be resolved through other channels (kinship, negotiation, mediation, civil or administrative law), let these other channels take precedence).
2. The community needs to realize that the application of restorative justice is important because it upholds justice, and there is no longer a view that people tend to be vengeful and want to retaliate against the perpetrators of crime.

REFERENCES

Abdoel Djamali R, 2010, Pengantar Hukum Indonesia, PT Raja Grafindo Persada, Jakarta

Afthonul Afif, 2015, Pemaafan, Rekonsiliasi dan Restorative Justice, Pustaka Pelajar, Yogyakarta

Bambang Waluyo, 2012, Viktimologi perlindungan korban dan saksi, Sinar Grafika, Jakarta

<https://www.detik.com/bali/hukum-dan-kriminal/d-6054679/sempt-diamankan-karena-tipu-warga-lokal-wn-rusia-akhirnya-bebas>. Di akses pada tanggal 25 Maret 2024, pukul 20.00 WITA.

Wawancara dengan Aiptu I Wayan Ariana, selaku Bintara Unit Reskrim Kepolisian Sektor Kuta Utara, pada tanggal 3 Mei 2024

Wawancara dengan Aiptu Made Dwitamasuta, selaku Bintara Unit Reskrim Kepolisian Sektor Kuta Utara, pada tanggal 28 April 2024

Wawancara dengan Aiptu Suroto selaku Perwira Unit Reskrim Kepolisian Sektor Kuta Utara, pada tanggal 28 April 2024