

## RESTORATIVE JUSTICE IN THE RESOLUTION OF SEXUAL CRIMES IN MEDAN CITY

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### ABSTRACT

**Objective:** Objective study This is the application of restorative justice to resolving sexual crimes in the city of Medan. One important aspect of implementing restorative justice is the development of a different mindset in the justice system. This system rejects the conventional view, which only views the perpetrator as the object of punishment and the victim as the party who has the right to obtain justice through sanctions against the perpetrator. In contrast, a restorative approach sees perpetrators as individuals who can take responsibility for their actions and have the potential to improve themselves. Apart from that, victims are also considered an integral part of the recovery process, and the community is given a more active role in supporting this process.

**Methods:** As for the method of study This is a qualitative study, and research qualitative is a research method used to understand social phenomena in depth. The researcher used a case study because it allowed them to gain a deep understanding of the context, process, and complexity of the phenomenon being studied. Type study This possible researcher will dig for perspective, experience, and possible meaning hidden in the data collected related to restorative justice in resolving sexual crimes in the city of Medan. Then the researcher analyzes or draws an interesting conclusion to find an answer from the researchers thorough.

**Conclusions:** Results from the study show that the implementation of restorative justice for sexual harassment cases in Medan faces a number of challenges involving complexity, sensitivity, and perceptions of justice. Findings from observations and interviews with court officials show that the use of restorative justice in this context is still rarely adopted. The main factors causing this low adoption involve the complexity of sexual assault cases, a lack of understanding of restorative justice, and concerns about the safety and protection of victims.

**Keywords:** restorative justice, criminal, sexual.

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## JUSTIÇA RESTAURADORA NA RESOLUÇÃO DE CRIMES SEXUAIS NA CIDADE DE MEDAN

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## RESUMO

**Objetivo:** Estudo objetivo Esta é a aplicação da justiça restauradora para resolver crimes sexuais na cidade de Medan. Um aspecto importante da implementação da justiça reparadora é o desenvolvimento de uma mentalidade diferente no sistema judicial. Este sistema rejeita a visão convencional, que apenas vê o autor como o objeto da punição e a vítima como a parte que tem o direito de obter justiça através de sanções contra o autor. Em contraste, uma abordagem restauradora vê os agressores como indivíduos que podem assumir a responsabilidade por suas ações e têm o potencial de melhorar a si mesmos. Além disso, as vítimas também são consideradas parte integrante do processo de recuperação, e a comunidade recebe um papel mais ativo no apoio a esse processo.

**Métodos:** Quanto ao método de estudo Este é um estudo qualitativo, e pesquisa qualitativa é um método de pesquisa usado para entender fenômenos sociais em profundidade. O pesquisador utilizou um estudo de caso porque permitiu um entendimento profundo do contexto, do processo e da complexidade do fenômeno estudado. Tipo de estudo Este possível pesquisador vai cavar para perspectiva, experiência e possível significado escondido nos dados coletados relacionados à justiça restauradora na resolução de crimes sexuais na cidade de Medan. Em seguida, o pesquisador analisa ou chega a uma conclusão interessante para encontrar uma resposta dos pesquisadores minuciosa.

**Conclusões:** Os resultados do estudo mostram que a implementação da justiça reparadora para casos de assédio sexual em Medan enfrenta uma série de desafios envolvendo complexidade, sensibilidade e percepções da justiça. Os resultados de observações e entrevistas com funcionários judiciais mostram que o uso da justiça reparadora neste contexto ainda é raramente adotado. Os principais fatores que causam essa baixa adoção envolvem a complexidade dos casos de agressão sexual, a falta de compreensão da justiça reparadora e preocupações com a segurança e proteção das vítimas.

**Palavras-chave:** justiça restaurativa, criminal, sexual.

## JUSTICIA RESTAURATIVA EN LA RESOLUCIÓN DE DELITOS SEXUALES EN LA CIUDAD DE MEDAN

### RESUMEN

**Objetivo:** Estudio objetivo Se trata de la aplicación de la justicia restaurativa a la resolución de delitos sexuales en la ciudad de Medan. Un aspecto importante de la aplicación de la justicia restaurativa es el desarrollo de una mentalidad diferente en el sistema de justicia. Este sistema rechaza la opinión convencional, que solo ve al perpetrador como objeto de castigo y a la víctima como la parte que tiene derecho a obtener justicia a través de sanciones contra el perpetrador. Por el contrario, un enfoque restaurativo ve a los perpetradores como individuos que pueden asumir la responsabilidad de sus acciones y tienen el potencial de mejorarse a sí mismos. Aparte de eso, las víctimas también se consideran parte integral del proceso de recuperación, y la comunidad tiene un papel más activo en el apoyo a este proceso.

**Métodos:** En cuanto al método de estudio Este es un estudio cualitativo, y la investigación cualitativa es un método de investigación utilizado para comprender los fenómenos sociales en profundidad. El investigador utilizó un estudio de caso porque les permitió obtener una comprensión profunda del contexto, el proceso y la complejidad del fenómeno que se estudia. Este posible investigador buscará la perspectiva, la experiencia y el posible significado oculto en los datos recopilados relacionados con la justicia restaurativa en la resolución de delitos sexuales en la ciudad de Medan. Luego, el investigador analiza o saca una conclusión interesante para encontrar una respuesta exhaustiva de los investigadores.

**Conclusiones:** Los resultados del estudio muestran que la implementación de justicia restaurativa para casos de acoso sexual en Medan enfrenta una serie de desafíos que involucran complejidad, sensibilidad y percepciones de justicia. Los resultados de las observaciones y



entrevistas con funcionarios judiciales muestran que el uso de la justicia restaurativa en este contexto rara vez se adopta. Los principales factores que causan esta baja adopción involucran la complejidad de los casos de agresión sexual, la falta de comprensión de la justicia restaurativa y las preocupaciones sobre la seguridad y protección de las víctimas.

**Palabras clave:** justicia restaurativa, penal, sexual.

## 1 INTRODUCTION

Restorative justice, or what is known as restorative justice, is an innovative approach to resolving criminal acts that is increasingly receiving attention in various justice systems throughout the world (Arief & Ambarsari, 2018). Explanation from Irabiah dkk., (2022) The concept of restorative justice basically emphasizes the restoration of damaged relationships between perpetrators, victims, and society as an alternative to traditional approaches, which focus more on punishment. The application of restorative justice in resolving criminal acts in court is very important because it provides space for reconciliation and holistic improvements.

According to Yusrizal dkk., (2021), one important aspect of implementing restorative justice is the development of a different mindset in the justice system. This system rejects the conventional view, which only views the perpetrator as the object of punishment and the victim as the party who has the right to obtain justice through sanctions against the perpetrator. In contrast, a restorative approach sees perpetrators as individuals who can take responsibility for their actions and have the potential to improve themselves. Apart from that, victims are also considered an integral part of the recovery process, and the community is given a more active role in supporting this process (Hambali, 2020).

The importance of implementing restorative justice can be seen in the various benefits it offers. First of all, this approach can create a safer and more stable environment by improving relationships between individuals in society. By providing space for dialogue between perpetrators, victims, and the community, restorative justice allows all parties to better understand each other's perspectives. This not only reduces the level of hostility but also creates the basis for a more sustainable recovery (Aminah & Rafsanjani, 2023; Nursaliyeva dkk., 2023).

Apart from that, according to Azmi dkk., (2023), the application of restorative justice can provide greater satisfaction for victims. In the conventional system, victims



often feel neglected or do not have an active role in the justice process. However, restorative justice provides an opportunity for victims to speak directly with the perpetrator, express the psychological and emotional impact of the crime, and obtain an apology or compensation, which may be difficult to achieve through conventional channels.

Bere dkk., (2023) explain that, at a broader level, the application of restorative justice can reduce crime rates by providing opportunities for perpetrators to understand the consequences of their actions and encourage them to make self-improvements. In many cases, restorative justice approaches are more effective in preventing reoffending than prison sentences, which often fail to provide adequate rehabilitation. However, the implementation of restorative justice also faces various challenges and criticism. Some people are skeptical of the system's ability to deal with serious or repeat crimes, considering it a form of gentleness that does not correspond to certain levels of crime (Edi dkk., 2023). Additionally, the success of restorative justice is highly dependent on the willingness of all parties to engage and cooperate, which may be difficult to achieve in situations where there is deep disagreement or conflict between the perpetrator and the victim.

According to Ferdiles, (2019), in the context of implementing restorative justice in court, the role of judicial institutions is very important. Courts must have systems that support and facilitate restorative approaches, including training for judges, prosecutors, and other justice officials. In addition, there needs to be a clear and comprehensive legal framework that regulates the implementation of restorative justice, including procedures to ensure justice and security for all parties involved. One aspect that needs to be considered in implementing restorative justice in court is selecting the right cases for this approach. Although restorative justice can be effective in resolving some crimes, not all cases are suitable for this approach. Cases involving severe violence or very serious criminal acts may require more stringent conventional treatment (Hermanus dkk., 2023; Panjaitan dkk., 2023).

The application of restorative justice can be enriched through more active community involvement. In some systems, community groups or panels can be an integral part of the decision-making process, providing diverse viewpoints and reflecting local values. This can help build community trust in the justice system and ensure that restorative approaches truly reflect the needs and values of the communities served (Anas



& Budianto, 2023; Irwandi, 2023). As part of the implementation of restorative justice, according to Pradityo, (2016) continuous evaluation needs to be carried out to measure the success and effectiveness of this approach in reducing crime rates, improving relationships between individuals, and providing meaningful justice. Data and statistics can be used to identify patterns of success or failure, as well as to improve and optimize restorative justice programs in court.

Pranata & Robekha, (2022) emphasize that it is very important to understand that the application of restorative justice is not an instant or single solution to all problems in the criminal justice system. This approach requires long-term commitment, collaboration, and continuous development. Therefore, involving various stakeholders, including the judiciary, law enforcement agencies, victims, perpetrators, and the general public, is essential. Sihotang, (2020) said a similar thing: the application of restorative justice in resolving criminal acts in court is not an easy process and does not face challenges. However, with commitment, a holistic approach, and the involvement of all parties involved, it can make a positive contribution to improving the criminal justice system and creating a more just, safe, and peaceful society.

The application of restorative justice in certain criminal cases, such as sexual harassment, raises a number of questions and challenges that require special thinking and approaches (Suranta, 2023). Taqiuddin & Risdiana, (2022) explained that sexual harassment is a form of crime that is very sensitive and involves deep trauma for the victim. Therefore, the use of restorative justice in this context requires careful ethical and practical consideration. It is important to understand that a restorative justice approach is not always appropriate for all cases of sexual harassment. There are varying levels of severity in these crimes, and in fact, some cases may be too serious to be addressed through a restorative approach. However, in cases where possible and with the consent of the victim, this approach can provide a more holistic and empowering alternative to dealing with the impact of sexual harassment.

In the context of sexual harassment, the first step needs to be to ensure the safety and well-being of the victim. Restorative justice should not be used as an excuse to override victims' protections or to pressure them into participating in a process that may not suit their needs or comfort level. Therefore, the decision to implement a restorative approach must be made with great care and always consider the victim's consent and interests as the main priority. According to Syahputra, (2023), one of the key elements of



implementing restorative justice in cases of sexual harassment is the existence of voluntary consent from all parties involved, including the victim and the perpetrator. Victims should have the right to determine whether they feel ready and willing to engage in a restorative process. Perpetrators also need to be willing to admit their mistakes and commit to changing.

According to Purwoleksono, (2014) the restorative justice process in sexual harassment cases can involve various stages. First of all, there is a need to listen and understand the victim's experience with empathy and sensitivity. This can involve meetings between victims and restorative justice facilitators in a safe and supportive environment. In these situations, victims can have an opportunity to talk about the impact sexual harassment has had on their lives, and perpetrators can be given the opportunity to listen and respond. Furthermore, restorative meetings can involve dialogue between the victim and the perpetrator, supervised by a trained facilitator. In the context of sexual abuse, this requires special skills in dealing with the emotions that may arise and ensuring that the process does not cause more trauma for the victim. The facilitator must be able to create a safe and supportive space and guide the dialogue process to achieve understanding and repentance.

(Hakim, (2020), there is an important note that the application of restorative justice in cases of sexual harassment does not always mean eliminating punishment or legal responsibility. In some cases, the restorative process may go hand in hand with appropriate legal action, especially if the perpetrator has broken the law and needs to be held legally accountable. Restorative justice is not a way to replace conventional legal processes but rather a supplement that aims to achieve broader justice and deeper healing. Additionally, it is important to consider the wider impact of sexual harassment in society. Restorative justice can involve efforts to educate the public about the consequences of sexual harassment, reduce stigma towards victims, and promote awareness of shared rights and responsibilities. By engaging the community, a restorative approach can be a means of addressing the underlying root causes of sexual abuse and building safer and more supportive communities (Hamzah, 2017).

According to Ruba'i, (2021) a restorative approach must be accompanied by a comprehensive evaluation to measure its effectiveness. This involves monitoring the long-term impacts on victims, perpetrators, and society as a whole. This evaluation will help assess whether the restorative approach has achieved its goals of repairing



relationships, facilitating repentance, and providing meaningful justice. In addition, professionals in the legal and mental health fields need to be actively involved in implementing restorative justice in cases of sexual harassment. They can provide the insight and expertise necessary to ensure that the process is carried out correctly and that the mental health needs of victims and perpetrators are addressed.

In the context of using restorative justice for certain criminal acts, such as sexual harassment, this approach must be applied carefully and in accordance with ethical and legal norms. Security, trust, and voluntary consent should always be the primary focus. Additionally, a restorative approach in cases of sexual abuse necessitates a highly sensitive approach to the trauma the victim has already experienced and the need to make sure that this process doesn't cause them any more suffering or discomfort. By considering all of these factors, the application of restorative justice can be a useful tool in handling cases of sexual harassment and supporting holistic recovery for all parties involved.

## **2 THEORETICAL FRAMEWORK**

Zehr, (2015) explains that restorative justice is an approach to justice that focuses on restoration and reconciliation rather than punishment or retribution. This approach views criminal acts as a violation of relationships and balance, not just as a violation of the law. Thus, restorative justice emphasises improving relationships and restoring society as its main goals.

Meanwhile, according to Zehr, (2015a), several key points about restorative justice are: a) **Shift from Punishment to Recovery:** Howard Zehr emphasises a paradigm shift from a retributive (punitive) approach to a restorative one. He highlighted that traditional justice systems that focus on punishing the perpetrator often fail to fix the root of the problem and restore the disturbed balance. b) **Emphasising Responsibility and Accountability:** Zehr introduced the concept of personal responsibility and accountability for the perpetrator. Restorative justice emphasises the importance of recognition by the perpetrator of his actions, understanding their impact, and responsibility for repairing the damage caused. c) **The Importance of Involvement of All Parties:** Zehr voices the idea that all parties involved in a criminal incident, including victims, perpetrators, and the community, must be involved in the resolution process. By involving all parties, restorative justice aims to build mutual understanding and reconciliation. d) **Reparation**



and Recovery: The concept of reparation is the main focus of restorative justice. Zehr proposes that sanctions given to perpetrators should not only be punitive in nature but should also support the recovery of victims and repair disturbed relationships. e) Collaborative Approach: Zehr promotes a collaborative approach to decision-making. This includes the active participation of all parties involved in determining the best way to handle criminal cases and restore balance. f) Application in Various Contexts: Restorative justice is not limited to the criminal justice system. Howard Zehr advocates for the use of restorative justice principles in a variety of contexts, including schools, communities, and organisations.

As for the law, sexual criminal acts are any actions that meet the criteria for being criminal as set out in Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (TPKS Law). This includes other acts of sexual violence that are also set out in the TPKS Law. (Suryandi dkk., 2020).

According to the TPKS Law, according to Kartika & Najemi, (2020) , sexual criminal acts consist of nine types, namely: a) non-physical sexual harassment, namely acts that do not cause direct physical contact between the perpetrator and the victim but cause feelings of insecurity and/or feelings of being intimidated, embarrassed, humiliated, and/or insulted. Examples: remarks or actions of a sexual nature, such as teasing, seducing, making jokes or comments of a sexual nature, sending messages or images of a sexual nature, and so on. b) physical sexual harassment, namely actions that cause direct physical contact between the perpetrator and victim but did not cause serious injuries or injuries. Examples: touching, kissing, rubbing, etc. c) coercion of contraception, namely the act of forcing someone to use or not use contraception. For example: forcing someone to use contraception, forcing someone not to use contraception, and so on; d) coerced sterilisation, namely the act of forcing someone to undergo sterilization. For example, forcing someone to have a vasectomy, forcing someone to have a tubectomy, and so on, e) forced marriage, namely the act of forcing someone to marry another person. Examples: forcing someone to marry someone they don't want; forcing someone to marry someone older or younger; and so on. f) Sexual torture, namely an act carried out intentionally to cause physical or mental pain or suffering to someone with the aim of obtaining a confession or statement from the person, punishing him, or intimidating or controlling him. Examples: hitting, slapping, kicking, burning, tying up, threatening, and so on. g) Sexual exploitation, namely actions carried out with the aim of gaining profit or





benefits from someone by exploiting their body or sexuality. Examples: trafficking people, forcing someone to become a sex worker, etc. h) Sexual slavery, namely acts carried out with the aim of controlling someone by exploiting their body or sexuality. Examples: making someone a sex slave, forcing someone to become a labourer ex, and so on.

Sexual crimes can be categorised as crimes against the body, crimes against dignity, or crimes against welfare. Sexual crimes against the body are sexual crimes that result in serious harm or injury to the victim. Sexual crimes against dignity are sexual crimes that cause feelings of insecurity, intimidation, humiliation, and/or humiliation in the victim. Sexual crimes against welfare are sexual crimes that cause physical, mental, or social harm to the victim. Sexual crimes are serious crimes that can have a negative impact on the victim, both physically, mentally, and socially. Therefore, it is important to prevent sexual crimes from occurring and provide protection for victims of sexual crimes.

### **3 METHOD**

Method of research used in the study This is a qualitative study, and research qualitative is a research method used to understand social phenomena in depth. Study qualitative Not only simply describe phenomena, but also try to understor the meaning or context of phenomena a (Hadi dkk., 2021). The researcher used a case study because it allowed them to gain a deep understanding of the context, process, and complexity of the phenomenon being studied (Iswadi dkk., 2023). Type study This possible researcher will dig for perspective, experience, and possible meaning hidden in the data collected related to the application of restorative justice in resolving sexual crimes in the city of Medan. Results of study studies can give in-depth, contextual, and detailed insights about the cases studied, which can be used to inform policy, practice, or development theory.

### **4 RESULTS AND DISCUSSION**

At the local level in Medan, the results of observations and interviews with one of the court officers show that the use of restorative justice in cases of sexual harassment is still rarely applied. Several factors and constraints may have influenced the level of adoption of this approach in the handling of sexual harassment cases in court. An in-depth



analysis of these findings provides a better understanding of the challenges and opportunities involved in introducing restorative justice in the Indonesian legal context. One of the main obstacles identified in the interviews was the complexity and sensitivity of the sexual harassment cases themselves. These cases often involve deep trauma for the victim, and conventional legal processes may be considered the only way to achieve justice. The perception that sexual harassment cases require strict sanctions and fair punishment may be one of the factors that hinders the implementation of restorative justice.

In addition, a lack of understanding and awareness of the concept of restorative justice may also be a factor influencing its use. Stakeholders in the justice system, including judges, prosecutors, and advocates, may not be fully familiar with the principles and practices of restorative justice. Additional education and training may be required to increase understanding and acceptance of these methods. Court officials interviewed also expressed concerns about safety and protection for victims in the context of restorative justice. This consideration is especially important given the additional risks that may arise from direct interactions between victims and perpetrators, even under the supervision of a facilitator. Guaranteeing protection and privacy for victims must be a top priority in designing and implementing restorative justice processes for sexual harassment cases.

It is important to evaluate how cultural and social factors in Medan play a role in the low use of restorative justice for sexual harassment cases. Society may have certain views and norms regarding punishment, justice, and responsibility. Understanding local cultural dynamics can help in adapting restorative justice approaches to suit the values and expectations of society in Medan. Community involvement can also play an important role in designing and encouraging the adoption of restorative justice. Working with community groups, NGOs, and non-governmental organizations can help bring this approach closer to local needs and realities. Outreach and advocacy campaigns can also be used to increase public awareness about the benefits and relevance of restorative justice, especially in the context of sexual harassment cases.

In this case, it needs to be acknowledged that the implementation of restorative justice requires strong support from various parties, including the government, judicial institutions, and the general public. Building consensus and support for the implementation of restorative justice involves collaborative efforts and open dialogue among all stakeholders. Authorities in Medan could consider holding workshops,



seminars, or training to provide a better understanding of restorative justice. Regarding the application of restorative justice, it is also important to understand that this approach does not have to completely replace conventional legal processes. On the other hand, restorative justice can be integrated as an addition or alternative in certain cases, especially if both parties agree and safety conditions are met.

The importance of the involvement and voluntary consent of victims and perpetrators in the restorative justice process cannot be ignored. Building trust and listening to victims' needs are critical steps in creating an environment that supports the use of restorative justice. This requires a very sensitive approach and is carried out with the utmost care to ensure that the rights and welfare of victims are always a priority. In order to overcome these obstacles, there is a need to build capacity and provide training to court officials, including judges, prosecutors, and law enforcement officers. A better understanding of restorative justice concepts and skills for facilitating restorative processes can help convince stakeholders of the value and effectiveness of this approach.

In order to introduce restorative justice, policy changes may be necessary. Encouraging changes in court rules and procedures to facilitate the use of restorative justice could be an important step. Authorities in Medan may consider adopting guidelines and regulations that promote the application of restorative justice in certain cases. In addition, further research can be conducted to evaluate the potential effectiveness of restorative justice in handling sexual harassment cases. This research may help strengthen the evidence base and provide a stronger basis to support the adoption of this approach at the court level. Research data and findings can also be used to persuade stakeholders and the general public about the benefits of restorative justice.

To overcome these obstacles, it is necessary to involve various stakeholders, including judicial institutions, local governments, NGOs, and the general public. Participatory processes like this can help build consensus, identify common solutions, and create broader support for the implementation of restorative justice in Medan. Implementing restorative justice in sexual harassment cases in Medan requires collaborative efforts and a deep understanding of the local context, cultural norms, and community dynamics. Although there are obstacles and challenges that must be overcome, opportunities to create a justice system that is more holistic, centered on the well-being of victims, and facilitates the repentance of perpetrators must be pursued with determination and strong commitment from all parties involved. Restorative justice, if



implemented wisely and carefully, can be an effective tool for improving the justice system and providing more comprehensive justice.

The study above is actually in accordance with the results of research by Zahrah & Taun, (2023). approach justice restorative or restorative justice on the practice until moment This is already walking, right? only question case criminal but also already enter to in case criminal conventional, in the judicial process criminal conventional known exists restitution or change make a loss to victim, meanwhile restoration own more meaning wide. Whereas restoration is more about the recovery connection between party victim or perpetrator, which one? recovery This can be based on an agreement between the victim And perpetrator. Conventional sentencing procedures do not allow the parties involved, in this case, the victim and the perpetrator, to actively participate in the resolution of the problem between them.

## 5 CONCLUSION

Based on results analysis And discussion beforehor can be concluded. The implementation of restorative justice for sexual harassment cases in Medan faces a number of challenges involving complexity, sensitivity, and perceptions of justice. Findings from observations and interviews with court officials show that the use of restorative justice in this context is still rarely adopted. The main factors causing this low adoption involve the complexity of sexual assault cases, a lack of understanding of restorative justice, and concerns about the safety and protection of victims. The main obstacle is the perception that cases of sexual harassment require strict punishment, and restorative justice may be considered less effective in responding to these serious crimes. Implementing restorative justice for sexual harassment cases also requires collaboration between various stakeholders, including judicial institutions, local governments, NGOs, and the general public. Participatory processes like this can help build broader support and identify shared solutions.



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