

The Reality of Law Enforcement of The Criminal Act of Theft by The Prosecutor's Office Through Restorative Justice in Indonesia

Sepriandison Saragih

Email: sepriandison77@gmail.com

Citizenship Education Study Program, Faculty of Teacher Training and Education, Universitas HKBP Nommensen Pematangsiantar, Indonesia

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Abstract

The existence of restorative justice certainly brings a new paradigm in the settlement of criminal cases, by seeking to settle cases solely outside the court. The implementation of restorative justice-based termination of prosecution can be applied to the crime of theft as the highest number of cases in Indonesia. This is because economic stability was disrupted after the Covid-19 pandemic created a moral crisis with a drastic increase in theft crimes in Indonesia. Meanwhile, there has recently been the establishment of restorative justice houses in each jurisdiction of the prosecutor's office to optimize the resolution of all legal problems by filtering cases that go to court, dissemination of law to local residents, and being able to develop local wisdom by involving local traditional leaders to emphasize consensus deliberation. The research approach is to use a normative juridical method with reference to laws and regulations sourced from primary data and literature studies originating from criminal law literature in Indonesia, which is then processed into a specific conclusion. The results of the study show that humanist restorative justice houses are an alternative to solving cases of theft. the embodiment of restorative justice in a hybrid way within the prosecutor's office will be achieved as a humane law enforcement agency in Indonesian.

I. Introduction

Existence restorative justice naturally bring paradigm new in settlement case act criminal, starting from problem enforcement previous law adhere to view legism just referring to the regulations legislation such that appearance changed become more views complex. The manifestation of the criminal law paradigm seeks to restore a situation through the humanistic role of the prosecutor's office (Asirwada, 2024). The existence of this provision explicitly constitutes a new breakthrough for prosecutors who are authorized to implement the termination of the prosecution, directly avoiding the complicated process at the trial stage. On the one hand, it can create a win-win solution for the victim and the perpetrator of the crime, while emphasizing compensation for the victim and the crime committed can be forgiven by the victim and the community (AWWALI, 2024). Restorative justice house is solely a manifestation of the Prosecutor's Regulation Number 15 of 2020 by optimizing the termination of demands that prioritize restorative justice as long as the case meets the requirements that can be resolved outside the court, later the prosecutor based on his authority will terminate the demands before being agreed by both parties (Widodo, 2023). Moreover, in the case of the crime of theft, it is easier to determine the amount of compensation compared to other cases, so that a restoration of the original condition is achieved (HENDRAWATI, 2024).

However, later on, regarding the implementation of restorative justice, it is necessary to make some restrictions so that it is not likened to a peace agreement, because in the law enforcement process that is handled, it will actually fall into the limit of carrying out procedural functions that contain material truth and justice which in fact still cannot be achieved (Insani, 2024). In this case, the economic aspect is a determinant of people's welfare, that the decreasing stability of the economy will result in a moral crisis with a drastic increase in theft crimes in Indonesia (Sujono et al., 2024). Brigadier General Awi Setiyono as Head of the Public Information Bureau of the Police Public Relations Division explained that there was an increase of 522 cases at the beginning of the new normal era in July 2022, namely from 5,035 cases to 5,557 cases each week. In the number of cases, there are five types of crimes that have the highest number, one of which is the theft of two-wheeled motor vehicles with 223 cases and theft with violence with 119 cases (Ramli et al., 2023). The high number of theft crimes currently will create excess capacity in prisons, especially since theft is not always a type of serious crime such as ordinary theft based on Article 362 of the Criminal Procedure Code (KUHP) with a penalty of five years imprisonment and a fine of nine hundred rupiah (Prastiawan et al., 2024). The increase in the number of crimes of theft after the Covid-19 pandemic accompanied by the presence of restorative justice houses will provide a

peaceful resolution for both parties, on the one hand the parties can avoid the complicated stages in the trial process and reduce the prison occupancy rate. In essence, restorative justice houses are an important means of achieving justice in society by looking at ordinary theft cases that are resolved through restorative justice houses (RRJ) (Nugroho, 2023). Of course, RRJ is a manifestation of Perja No. 15 of 2020 concerning the Termination of Prosecutions Based on Restorative Justice by prioritizing law enforcement in the humanistic prosecutor's office area (Yasa et al., 2023).

Review Library

Paradigm approach restorative justice started from problem the law that uses system retributive. The validity of retributive more tend make act crime committed is violation on law That alone, solely perpetrator has to injure state rights and place them as a victim of crime (Karyatin & Sinaga, 2024).

Protection for party the perpetrator and the victim were impressed ignored, considering that losses suffered by victims of crime criminal No only in a way material, but rather immaterial losses that have not been guaranteed in system justice criminal. On the other hand, the perpetrator in all type crimes committed in essence No always lead to criminal charges prison, because Still there is settlement alternative with method reconcile the victim and the perpetrator act criminal (Djunaedi, 2020). Restorative Justice Alone is a objective return condition back to in the form of recovery relationship and redeem the mistake that has been made made perpetrator act criminal offences court, namely intended so that the problems that occur consequence act criminal the will reach agreement peace (Sari & Pratama, 2021).

2. Research Method

Approach Study is use method legal normative with referring to the regulations legislation sourced from primary data and studies the literature that originates from literature law criminal law in Indonesia, which data is then processed become a conclusions that are special (Wangga, 2022). As the type of research used by the author is normative and empirical legal research, the data sources and legal materials used for the research are as follows: 1. Data Sources In legal research there are two types of data needed, the first type of data is called primary data and the second type of data is called secondary data. 1) Primary data Primary data in legal research is data obtained primarily from the results of empirical research, namely research conducted directly in society. Primary data sources are data taken from their sources or from the field, through interviews with stakeholders or respondents who can provide the information needed related to the problem to be studied. 2) Secondary Data Secondary data functions as a complement or support for primary data. According to Soerjo Soekamto, secondary data is data that

includes official documents, books, and even research results in the form of reports. Soerjono Sukamto states that secondary data is data that includes official documents, books, and research results in the form of reports

3. Results and Discussion

Prosecutor's Law Enforcement Efforts in Achieving Restorative Justice

The concretization of restorative justice presents a meeting point between perpetrators of crimes and victims of crimes which is referred to as the power to participate in the case and to make decisions, where efforts to resolve criminal acts are not only carried out by the government but prioritize Human Rights and the interests of the victims of the perpetrators' crimes.

Efforts to resolve criminal acts through peaceful means between the perpetrators of crime and victims of crime, as well as the families of both parties and the community constitute a paradigm shift, which was previously seen as only being in the form of "the paradigm of blame and punishment" to become a new paradigm.

A new paradigm that is effective in inclusive and progressive law enforcement, in its implementation requires a form of realization of optimization by optimizing restorative justice houses as a place to resolve criminal cases, in this writing the author will discuss more specifically related to Minor Crimes, especially theft in several areas (Manthovani et al., 2023).

Based on the applicable laws and regulations regarding Minor Crimes, especially theft, by prioritizing restorative justice, especially in the Prosecutor's Regulation Number 15 of 2020 concerning Termination of Prosecution (Citizen, 2022).

Based on Restorative Justice and various supporting literature, the author assumes that it is easier to resolve the case of a theft by implementing restorative justice, because when reaching an agreement on the case of an existing case, a sense of family is prioritized, namely by conducting mediation between the perpetrator of the crime and the victim of the crime, as well as the families of both parties, so that a common thread can be found in the form of compensation or returning goods/property stolen by the perpetrator (Adjie Rizky Ananda, 2022).

The perpetrator of the crime is obliged to provide compensation for the victim's property in the form of compensation or return of stolen goods/property that has been caused to the victim and the victim's family. The damage or loss that arises, is initially carried out with restoration through a meeting of the perpetrator and the victim of the crime (a meeting place for people) peacefully, in order to find a solution to rebuild the relationship between the two parties concerned.

Following the enactment of Prosecutor's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, the Attorney General's Office has terminated prosecution of 1,070 General Criminal Cases through the restorative justice approach as of May 2022. In this writing, the author will discuss

more specifically regarding Minor Criminal Offenses, especially theft in several areas.

The presence of restorative justice in the termination of the claim is not oriented towards retaliatory action. The measure of justice is not based on retributive justice in the form of revenge or imprisonment, but based on awareness and forgiveness. The settlement of criminal cases through the restorative justice mechanism emphasizes the restoration of the original condition and balance of protection and the interests of the relationship between the two parties by considering the principles of justice, the principle of proportionality and the principle of subsidiarity with the hope that the community can try to resolve if a problem occurs in a family way which of course is done outside the justice system, accompanied by an emphasis that in order to obtain this restorative justice there are still terms and conditions that must be met, except for drug cases or those that cause fatalities cannot be done (Sukardi & Purnama, 2022).

Restorative justice is now in the termination of the prosecution as the background for optimizing inclusive and progressive law enforcement to focus on victim recovery, reducing the overcapacity of prison occupants which is a scourge for prisons in Indonesia and theft cases are easier to resolve because it is easier to calculate the nominal loss of criminal acts of no more than IDR 2,500,000.00 (two million five hundred thousand rupiah) (Iman et al., 2022).

Dr. ST. Burhanuddin, SH, MM, as the current Attorney General of the Republic of Indonesia, created a restorative justice house program in several District Attorney's Offices as a solution to legal problems that often arise and occur in society and to facilitate coordination in resolving cases outside the courts, in the sense of reconciling a minor case (Arimuladi, 2024).

B. Implementation of Restorative Justice House in the North Sumatra Provincial Prosecutor's Office

In its optimization, the restorative justice house is very strategic in an effort to provide peace from a case that is a Minor Crime. This means that the case does not need to be brought to court with the provision that the case can still be resolved outside the court, so the local prosecutor encourages restorative justice to be implemented (Garcia et al., 2020).

Reported from the statement of the Head of the South Kalimantan High Prosecutor's Office, Mukri said that the restorative justice house facilitates coordination in resolving minor criminal cases outside the courts and is the realization of optimizing the expansion of the construction of restorative justice houses whose existence is not only in the District Attorney's Office, but also expanded to include each Regency/City area (Akbar et al., 2022).

Fajar Syah Putra as the Head of the Lampung High Prosecutor's Office together with Bobby Nasution as the Mayor of Medan, also believes that the restorative justice

house is present as a form of facility for resolving all legal problems that can be resolved through deliberation in accordance with the legal corridors that apply in society. Restorative justice house by the Attorney General of the Republic of Indonesia as a forum for resolving criminal cases of termination of demands is the background for optimizing inclusive and progressive law enforcement to focus on victim recovery, reducing overcapacity of prison housing which is a scourge for prisons in Indonesia and theft cases are easier to resolve because it is easier to calculate the nominal loss (criminal acts of no more than IDR 2,500,000.00 (two million five hundred thousand rupiah) (Fata, 2022).

Based on the provisions of the Prosecutor's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice (yadi Harahap, 2024). It was found that the application of restorative justice in a number of regions prioritizes the settlement of criminal cases outside the court by considering the principles of justice, the principle of proportionality and the principle of subsidiarity in a number of regions, namely:

1. South Jakarta District Attorney's Office

In the case of the theft of a mobile phone, the motive of the perpetrators (Eed and ST) to commit the act was because they planned to buy catfish food at a pet shop and it turned out that there was a mobile phone belonging to the victim, who at that time the victim was facing away from the perpetrators, so that the intention and opportunity as well as the crime by the perpetrators arose (Lubis, 2024). The results of the mediation resulted in peace, so that the South Jakarta District Attorney's Office decided not to continue the prosecution through the Letter of Termination of Prosecution (SKP2) which was based on the realization of restorative justice dated May 18, 2022.

2. Bandar Lampung District Attorney's Office

In the case of aggravated theft, the victim reported the perpetrator that he had suffered a loss of three avocados worth IDR 20,000.00 (twenty thousand rupiah), then after mediation/settlement with the family and a Peace Report dated October 5, 2020, the prosecutor's office decided to agree to the Termination of Prosecution of the Head of the Lampung High Prosecutor's Office. In this case, the perpetrator is suspected of Article 363 paragraph (1) number 4 of the Criminal Code (Nugroho et al., 2023).

3. Gorontalo District Prosecutor 's Office

In case of theft. Suspect Muliyanto Musa als Ijan was suspected violating Article 362 of the Criminal Code regarding Theft. Deputy Attorney General Action General Criminal Approves application termination prosecution based on restorative justice dated May 18, 2022, due to has found agreement peace between suspect and victim (Asmara, 2021).

4. South Lampung District Attorney's Office

In the case of theft of 30 kilograms of rubber, the victim (PTPN VII Bergen) suffered a loss of Rp 525,000.00 (five hundred and twenty five thousand rupiah), where the defendant worked as a driver, then the Prosecutor assumed that the small value of the loss and the reason the perpetrator did this was due to the demands of meeting the needs of life (having a wife and three children who were still young). The results of the mediation resulted in peace, so that the South Lampung District Attorney decided not to continue the prosecution through the Letter of Termination of Prosecution (SKP2) based on restorative justice. In this case, the perpetrator was suspected of Article 374 of the Criminal Code Concerning Embezzlement with a criminal penalty of 5 (five) years in prison.

After the inauguration of the restorative justice house, it is hoped that its presence will be able to provide a form of effort to optimize the concept of restorative justice without the need to be resolved in the courts, but simply with mediation/settlement based on the principles of justice, the principle of proportionality and the principle of subsidiarity through the realization of the restorative justice house in order to realize the optimization of inclusive and progressive law enforcement so that it focuses on victim recovery, reducing the overcapacity of prison housing which is a scourge for prisons in Indonesia and theft cases are easier to resolve because it is easier to calculate the nominal loss (criminal acts of no more than IDR 2,500,000.00 (two million five hundred thousand rupiah).

restorative justice houses in addition to alternative forms of resolving legal problems among the community, is also an inclusive and progressive legal breakthrough by prioritizing peace (deliberation and consensus) that upholds the values of justice. So that the realization of restorative justice in the prosecutor's office will be increasingly optimal and in the future when faced with an increase in theft cases can be resolved through restorative justice houses.

Basically, the prosecutor is one of the law enforcement officers who has the authority to enforce the law, namely the prosecution of criminal cases as its main task. In its implementation, the prosecutor can determine whether the case being handled can be submitted to court based on the articles and charges, or whether it is requested to terminate the prosecution as a manifestation of restorative justice.

Basically, restorative justice is a form of implementation based on the principle of justice. Closing a case is a form of legal interest with an emphasis on returning a condition to its original state, so that based on its authority, it can stop the prosecution. Restorative justice houses are an important means of achieving justice in society by looking at ordinary theft cases that are resolved through restorative justice houses (RRJ). Of course, RRJ is a manifestation of Perja No. 15 of 2020 concerning the Termination of Prosecutions Based on Restorative Justice by prioritizing humanistic law enforcement in the prosecutor's office.

Regarding the implementation of the termination of demands based on restorative justice, there is a limitation of criminal acts, namely minor crimes, one of which is theft. Basically, this crime is part of a behavioral deviation that takes other people's property, causing unrest in the community so that it needs to be resolved without eliminating the perpetrator's rights. This is because the current theft is motivated by the increasing number of unemployed accompanied by the unstable national economic conditions after the Covid-19 pandemic.

The results of the implementation of mediation that brings together both parties will determine whether the case will be stopped or continued to the court according to the results of the agreement. Therefore, the need for a hybrid restorative justice concept is interpreted as not always a case that is resolved ends in a peace agreement, because achieving justice itself is not always oriented towards peace but still imposing criminal sanctions in prison.

4. Conclusion

Embodiment optimization expansion House restorative justice in the Prosecutor's Office area in Lampung province apart from form alternative settlement problem law among society, at the same time become breakthrough inclusive and progressive law with put forward peace (deliberation consensus) which holds firm values justice. So that embodiment restorative justice in the environment prosecutor's office will more optimal and deeper term time forward when want to faced with with improvement case theft can completed through House restorative justice.

References

- Adjie Rizky Ananda. (2022). Application Of Restorative Justice As An Alternative To Settlement In Criminal Acts Of Fraud And Embezzlement In The Jurisdiction Of Surabaya Police Area, Indonesia. *International Journal Of Innovative Technologies In Social Science*, 4(36). https://doi.org/10.31435/Rsglobal_Ijitss/30122022/7891
- Akbar, M., Said Karim, M., & Ilyas, A. (2022). Juridical Review Of Obstacles To The Implementation Of Restorative Justice In The Crime Of Theft. *Daengku: Journal Of Humanities And Social Sciences Innovation*, 2(5), 710–717. <https://doi.org/10.35877/454ri.Daengku1083>
- Arimuladi, S. U. (2024). Enhancing Legal Certainty Through Restorative Justice: A Focus On The Role Of Indonesia's Attorney General's Office. *Pakistan Journal Of Criminology*, 16(16.2), 903–912. <https://doi.org/10.62271/Pjc.16.2.903.912>
- Asirwada, D. T. K. (2024). *Tinjauan Yuridis Pelaksanaan Restorative Justice Di Kejaksaan Negeri Semarang Dalam Menangani Tindak Pidana Pencurian*. Universitas Islam Sultan Agung Semarang. <http://repository.unissula.ac.id/id/eprint/36419>
- Asmara, T. (2021). The Effectiveness Of Gratification Arrangements As Part Of Corruption Crimes In Indonesia: A Theoretical Study In Talcott Parsons Perspective. *International Journal*, 10, 907.
- Awwali, A. S. (2024). *Penerapan Pelaksanaan Restorative Justice Di Kejaksaan Republik Indonesia (Studi Kasus Restorative Justice Perkara Perkebunan Di Kejaksaan Negeri Kapuas)*. Universitas Pancasakti Tegal.

- Citizen, Y. O. (2022). Termination Of Prosecutions Based On Restorative Justice In The Settlements Of Criminal Cases In The Area Of The Hight Prosecutors Of Lampung. *Pancasila And Law Review*, 3(2), 111–120. <https://doi.org/10.25041/Plr.V3i2.2734>
- Djunaedi, D. (N.D.). Restorative Justice Efforts In Settlement Of Misdemeanor Crime Cases. *Ratio Legis Journal*, 2(1), 57–65.
- Fata, A. N. (2022). The Prosecutor's Authority In Criminal Law Enforcement With A Restorative Justice Approach. *Jurnal Hukum Khaira Ummah*, 16(3), 113–124. <https://doi.org/http://dx.doi.org/10.30659/Jku.V16i3.19364>
- Garcia, V., Disemadi, H. S., & Arief, B. N. (2020). The Enforcement Of Restorative Justice In Indonesia Criminal Law. *Legality: Jurnal Ilmiah Hukum*, 28(1), 22–35. <https://doi.org/https://ejournal.umm.ac.id/index.php/Legality/Article/View/10680>
- Hendrawati, S. N. (2024). *Implementasi Restorative Justice Pada Tindak Pidana Pencurian Di Kejaksaaan Negeri Semarang*. Universitas Islam Sultan Agung Semarang. <http://repository.unissula.ac.id/id/eprint/35353>
- Iman, A. S., Firmanto, T., & Ridwan, R. (2022). Law Enforcement Of The Criminal Action Of Corruption In The Time Of The Pandemic Covid-19. *International Journal Of Social Science Research And Review*, 5(10), 266–273. <https://doi.org/10.47814/Ijssrr.V5i10.602>
- Insani, N. M. (2024). Paradigma Restorative Justice Dalam Penegakan Hukum Pidana (Studi Kasus Pencurian 1 Unit Handphone Di Provinsi Nusa Tenggara Barat Tahun 2023). *Prestisius Hukum Brilliance*, 6(3).
- Karyatin, A., & Sinaga, O. (2024). Analysis Of The Implementation Of Restorative Justice By The Prosecutor's Office Of The Republic Of Indonesia In The Framework Of The Direction Of Criminal Law Political Reform In Indonesia. *Journal Of Law, Social Science And Humanities*, 2(1), 153–171. <https://doi.org/https://myjournal.or.id/index.php/IJSSH/Article/View/269>
- Lubis, M. R. (2024). Juridical Analysis Of The Application Of Restorative Justice At The Prosecution Stage Of Petty Theft Crime. *Isnu Nine-Star Multidisciplinary Journal*, 1(2), 83–92.
- Manthovani, R., Marbun, R., Hamid, A., Wibisana, A. W., & Rachman, C. I. L. (2023). The Practice Of Applying The Concept Of Restorative Justice In Law Enforcement In Indonesia. *Russian Law Journal*, 11(5), 1459–1477.
- Nugroho, F. S. (2023). *Rekonstruksi Regulasi Penegakan Hukum Tindak Pidana Pencurian Dengan Pemberatan Di Indonesia Melalui Pendekatan Restorative Justice*. Universitas Islam Sultan Agung. <http://repository.unissula.ac.id/id/eprint/31272>
- Nugroho, F. S., Mashdurohatun, A., Bawono, B. T., & Wiwoho, J. (2023). The Concept Of Law Enforcement Of The Crime Of Theft Through A Restorative Justice Approach. *Sch. Int. J. Law, Crime Justice*, 6(08), 408–423.
- Prastiawan, A., Hakim, A. R., Herawati, C. P. A., Hermawan, R. C., & Prasetyo, D. A. (2024). Penanganan Perkara Pidana Dengan Keadilan Restorative Justice Di Desa Pabian Kec. Kota Kab. Sumenep. *Karya: Jurnal Pengabdian Kepada Masyarakat*, 4(2), 24–29. https://jurnal.fkip.samawa-university.ac.id/karya_jpm/article/view/708
- Ramli, I., Hidayat, W. A., & Muharuddin, M. (2023). Penghentian Perkara Berdasarkan Restorative Justice Dalam Perkara Tindak Pidana Pencurian Di Kota Sorong. *Journal Of Law Justice (Jlj)*, 1(2

- December), 89–108. <https://doi.org/10.33506/jlj.v1i2.2868>
- Sari, R. D. P., & Pratama, I. (2021). Legal Certainty In Restorative Justice As Law Enforcement For Criminal Acts In The New Normal Period. *Budapest International Research And Critics Institute (Birci-Journal): Humanities And Social Sciences*, 4(4), 10069–10078. <https://www.bircu-journal.com/index.php/birci/article/view/3029>
- Sujono, S., Sudarto, S., & Putra, H. A. (2024). Analisis Penerapan Restorative Justice Oleh Kejaksaan Republik Indonesia Dalam Bingkai Arah Pembaharuan Politik Hukum Pidana Di Indonesia. *Jurnal Rectum: Tinjauan Yuridis Penanganan Tindak Pidana*, 6(3), 551–564. <http://dx.doi.org/10.46930/jurnalrectum.v6i3.4753>
- Sukardi, S., & Purnama, H. R. (2022). Restorative Justice Principles In Law Enforcement And Democracy In Indonesia. *Jils*, 7, 155.
- Wangga, M. S. E. (2022). Implementation Of Restorative Justice In Criminal Cases In Indonesia. *Law And Humanities Quarterly Reviews*, 1(3).
- Widodo, P. (2023). Hambatan-Hambatan Penerapan Penghentian Penuntutan Perkara Tindak Pidana Berdasarkan Restorative Justice. *Jurnal Hukum Ius Publicum*, 4(2), 1–16. <https://doi.org/10.55551/jip.v4i2.62>
- Yadi Harahap, M. (2024). Juridical Analysis Of The Implementation Of Restorative Justice At The Prosecution Stage For Crimes Of Theft Under Two Million Rupiah In The Legal System In Indonesia. *Law Sinergy Conference Proceeding*, 1(1), 66–75. <https://conference.sinergilp.com/index.php/lsc/article/view/10>
- Yasa, K. P., Yulianti, N. P. R., & Mangku, D. G. S. (2023). Implementasi Keadilan Restoratif Terhadap Penyelesaian Tindak Pidana Pencurian Dalam Lingkup Keluarga Di Kejaksaan. *Jurnal Ilmu Hukum Sui Generis*, 3(3), 135–145.