

## THE UNLOCKING EMPHATY THROUGH RESTORATIVE JUSTICE: A MEDIATION TO HEALING THEFT

Achmad Arifulloh  
Universitas Islam Sultan Agung, Semarang, Indonesia  
[achmadarifulloh@unissula.ac.id](mailto:achmadarifulloh@unissula.ac.id)

### **Abstract**

*Theft, a prevalent property crime in society, serves as the focal point of this research. The study aims to investigate and evaluate the efforts, challenges, and potential solutions in addressing common theft crimes by employing a restorative justice approach. The author employs a sociological-legal approach as the research methodology. The findings of this research indicate that the resolution of theft-related criminal offenses through a restorative justice framework is feasible when both the offender and victim willingly participate in the process with the objective of achieving reconciliation and preventing recurrence of criminal behavior (recidivism). To address this, it is suggested that the responsibility for mediating the process should be entrusted to the offender and the victim, with a focus on safeguarding the rights and well-being of both parties. In addition, community involvement is emphasized, along with stringent oversight to ensure the effective implementation of the resolution process.*

**Keywords:** Justice; Policy; Restorative; Theft.

### **A. INTRODUCTION**

At the end of 2019, Indonesia was hit by the Covid-19 outbreak, which of course had many impacts on various aspects ranging from tourism, health, education to the economy. The closure of businesses causes limited job opportunities, so that people lose their jobs. The impact of the declining economy in Indonesia is one of the causes of increasing criminal acts in society.<sup>1</sup>

There are various causes of crime, one of which is caused by the need for limited material objects and the acquisition of these objects is also limited.<sup>2</sup> Human desires, which never have limits, have become natural. If one need has been fulfilled, then the next need arises. Therefore, in various ways humans try to fulfill it. Even in ways that are very unexemplary by breaking the law. Property can cause crimes such as theft, embezzlement, fraud, and even murder.

Theft is a crime that often occurs in society. According to Butje Tampi, criminal acts or actions that occur in society and crimes against

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1 Erni Panca Kurniasih, *Dampak Pandemi Covid 19 Terhadap Penurunan Kesejahteraan Masyarakat Kota Pontianak*, Prosiding Seminar Akademik Tahunan Ilmu Ekonomi dan Studi Pembangunan, Universitas Tanjung Pura, 2020, page.288

2 Mochamad Sahid, Kebijakan Hukum Pidana Dalam Menanggulangi Tindak Pidana Penipuan Tenaga Kerja Di Indonesia, *Jurnal Ilmu Hukum : Media Hukum Sekolah Tinggi Hukum Garut* Vol. 1, No. 1, 2022, page. 4

property, especially theft, occupy the highest ranking, meaning that crimes against property are the crimes that most often occur in society.<sup>3</sup> The crime of theft is regulated in the provisions of Articles 362-367 of the Criminal Code. There are 3 (three) types of criminal acts of theft that are classified in the Criminal Code, namely theft with violence, theft with weight, and theft within the family environment. Apart from what has been mentioned, one of the crimes of theft that often occurs is the crime of ordinary theft.

The crime of ordinary theft is an ordinary offense, meaning an offense that can be processed directly by investigators without the consent of the victim or injured party.<sup>4</sup> In other words, without a complaint or even if the victim has withdrawn his report, investigators still have an obligation to continue the case process. This crime of ordinary theft is regulated in the provisions of Article 362 of the Criminal Code that engaging in the unlawful act of taking something, whether in whole or in part, that rightfully belongs to another individual, can result in charges of theft, carrying a potential penalty of up to five years in prison or a maximum fine of nine hundred rupiah.

Based on Article 362 of the Criminal Code above, the element "against the law" is formulated clearly and firmly. With the inclusion of the words "against the law in the formulation of criminal acts in Article 362 of the Criminal Code, it confirms that the act of taking other people's property against the law is an act that is prohibited by law and carries criminal sanctions.

Case resolution can be done in 2 (two) ways, namely through a litigation process in court and a process outside of court (non-litigation) or often called Alternative Dispute Resolution (APS).<sup>5</sup> In Indonesia, in the criminal justice process there are several stages starting from investigation, prosecution, examination in court to the judge's decision. The more stages there are, the longer the process of resolving a case and the higher the costs incurred. This is of course contrary to the principle of administering judicial power, namely that justice is carried out simply, quick and at low cost.<sup>6</sup>

The development of a system and method in law enforcement in Indonesia always follows developments in justice in society. In the police environment, restorative justice is a form of law enforcement outside of court. Solving problems in ordinary criminal acts of theft can be attempted through the concept of a restorative justice approach. According to Article 1 paragraph (3) of the Republic of Indonesia State Police Regulation Number

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3 Nadya Novina Kusuma, Legalitas Alat Bukti Berupa Keterangan Saksi Korban Sedarah Pada Tindak Pidana Pencurian Dalam Lingkup Keluarga, *Jurnal Hukum Acara Verstek*, Universitas Sebelas March, 2018, page.15

4 Febriansyah, Rozi Yudha, Delik-Delik Diluar Kuhp (Tindak Pidana Cyber Crime Dan Cara Penanggulangan), *Jurnal Hasil Penelitian*, Vol. 3, No. 1, January, 2018, page.112

5 Sanjaya, Umar Haris, Pembangunan Hukum Arbitrase (Politik Hukum) Sebagai Upaya Penyelesaian Sengketa (Tinjauan Atas Undang-Undang No. 30 Tahun 1999 Tentang Arbitrase Dan Alternatif Penyelesaian Sengketa), *Jurnal Yuridis*, Vol. 02, No. 2, 2015, page. 56

6 Nur Indra Socawibawa, Arif Wibowo, Independensi Kekuasaan Kehakiman Hukum Acara Mahkamah Konstitusi, *Jurnal Penelitian Multi Disiplin*, Vol. 2, No. 1, Februari 2023, page. 110.

8 of 2021, Restorative Justice is the resolution of criminal acts by involving the perpetrator, victim, perpetrator's family, victim's family, community leaders, religious leaders, traditional leaders or stakeholders together. seek a just solution through peace by emphasizing restoration to its original state.<sup>7</sup>

Restorative Justice is a concrete form of police discretion that has started to be discussed recently, related to the emergence of public complaints regarding the performance of law enforcement carried out by National Police investigators. In principle, restorative justice can be carried out at the inquiry/ investigation stage or even before that stage.<sup>8</sup>

The Chief of the National Police of the Republic of Indonesia issued 2 (two) interrelated circular letters, namely the National Police Chief Circular (SE) No. 7 of 2018 concerning Termination of Investigations and Circular Letter (SE) of the National Police Chief no. 8 of 2018 concerning the Implementation of Restorative Justice in Resolving Criminal Cases, as well as National Police Chief Regulation no. 8 of 2021 concerning Handling Criminal Acts Based on Restorative Justice. These regulations and circulars are used to ensure equality in the application of restorative justice in resolving cases within the police force and to ensure that irregularities do not occur and the emergence of diversity in the administration of inquiries or investigations. These regulations and circulars are used as guidelines for National Police investigators and investigators in the process of investigating and investigating criminal cases. This process is the main key in determining whether or not a criminal case can proceed to the prosecution process and to the criminal justice process in order to realize legal objectives, namely justice, certainty and expediency by prioritizing the principles of simple, fast and low-cost justice.

In substance, National Police Chief Regulation no. 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice has provided an opportunity to complete the resolution of criminal cases before proceeding to the prosecution stage.<sup>9</sup> However, in reality the implementation of restorative justice still experiences several obstacles, including the absence of a law that clearly and firmly regulates restorative justice so that it becomes an obstacle in itself and can only be applied to perpetrators who admit their actions, then regarding the law enforcement officers whose role is the police. , prosecutors and judges, if the majority of law enforcers still refer to retributive justice then restorative justice will be difficult to realize.<sup>10</sup> Apart from that, the low level of public awareness

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7 Peraturan Kepolisian Negara Republik Indonesia No. 8 Tahun 2021 Tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif, page. 2.

8 Henny Saida Flora, The Living Law's Restorative Justice: Implementation of Restorative Justice as an Integrative Mechanism in Criminal Law, *Unram Law Review*, Vol. 7, No. 1, April 2023, page.137

9 Luh Putu Adelia Anggraeni, Ni Putu Rai Yuliantini, Dewa Gede Sudika Mangku, Implementasi Restorative Justice Dalam Penyelesaian Tindak Pidana Pencurian Yang Dilakukan Oleh Anak Di Kepolisian Resor Buleleng, *Jurnal Komunitas Yustisia*, Vol. 4, No. 2, August 2021, page. 239-240

10 Retributive Justice is the concept of resolving criminal cases by means of punishment.

regarding the law will be a challenge and obstacle in itself. Therefore, more massive outreach is needed by law enforcement officials

This was a finding in research conducted by Bastian Nugroho in a scientific article entitled "*Implementasi Kebijakan Restorative Justice System Pada Penyalahgunaan Narkotika Dan Psikotropika*"<sup>11</sup> In the article, it is explained that restorative justice policies are implemented in efforts to overcome and eradicate narcotics crimes through penal and non-penal policies. This research also experienced the same obstacles as in the research conducted by the author, namely limitations in facilities and facilities that support law enforcement efforts. The implementation of restorative justice in resolving criminal cases will face various challenges in the form of social ills.<sup>12</sup> This is due to political polarization<sup>13</sup> which divides society and gives rise to social conflict<sup>14</sup> which occurs as a result of mutual reporting against a background of revenge, hatred towards a group, race and ethnicity. This will certainly be an obstacle in resolving criminal acts using restorative justice.

Based on the description above, the author is interested in conducting further research with the aim of knowing and analyzing efforts to resolve the crime of ordinary theft through restorative justice and to find out and analyze the obstacles and solutions in efforts to resolve the crime of ordinary theft through restorative justice.

## **B. RESEARCH METHODS**

The research approach that the author uses in this research is a Sociological Juridical approach. The use of the sociological juridical approach method in legal research is because the problems studied are closely related to juridical and sociological factors.<sup>15</sup> The research specifications used are descriptive analysis, which means to describe symptoms or events that occur in society accurately and of course clearly. The data sources from this research are divided into 2 (two) things, namely primary and secondary data. In carrying out data analysis, qualitative analysis methods were used, namely a research procedure that produces descriptive analytical data.<sup>16</sup>

## **C. RESULTS AND DISCUSSION**

### **1. Efforts to Resolve Ordinary Crimes of Theft Through Restorative Justice.**

The crime of theft is regulated in Articles 362-367 of the Criminal Code (KUHP). Theft offenses are divided into several types. Ordinary

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11 Bastianto Nugroho, Et Al, 2020, Implementasi Kebijakan Restorative Justice System Pada Penyalahgunaan Narkotika Dan Psikotropika, *Maksiagama*, Vol. 14, No. 1, May, page.39-48

12 Social disease is a form of deviation from societal norms that is carried out continuously, for example drunkenness, fights between students, free sex, and so on.

13 Political polarization is the division into 2 (two) opposing groups over issues of religious identity, nationalism or ideology

14 Social conflict is a conflict between members of society that is comprehensive in life.

15 Irwansyah, *Penelitian Hukum: Pilihan Metode dan Praktik Penulisan Artikel* (Edisi Revisi), Yogyakarta, Mirra Buana Media, 2021, page. 180

16 Ibid, page. 210

theft is included in Petty Theft (Article 364 of the Criminal Code). Petty theft is theft where the elements are the main form of theft but there are additional elements (lightening ones), therefore the criminal sentence is reduced.<sup>17</sup> The punishment for petty theft is a maximum imprisonment of 3 (three) months or a maximum fine of IDR 900 (nine hundred rupiah).

In 2021 in accordance with National Police Chief Regulation No. 8 of 2021, there are eight (8) police stations in Semarang that have begun implementing restorative justice in resolving criminal cases. The 8 (eight) police stations are Tanjung Mas Harbor Area Police, North Semarang Police, Gajah Mungkur Police, and Gayamsari Police, Central Semarang Police, South Semarang Police, Candisari Police, and East Semarang Police.<sup>18</sup>

In the law enforcement process or criminal justice system in Indonesia, the concept of a restorative justice approach is an approach that focuses more on conditions to create justice and balance for the perpetrators of crimes and the victims themselves.<sup>19</sup> Procedural and criminal justice mechanisms that focus on punishment are transformed into a dialogue and mediation process to create a more just and balanced criminal case settlement agreement for victims and perpetrators.<sup>20</sup>

Gayamsari Police Station is one of 8 (eight) police stations in Semarang that implement the concept of restorative justice. One of the criminal acts that is often handled by the Gayamsari Police using a restorative justice approach is the crime of simple theft. According to Ipda Bunawi, S.H., as the Criminal Investigation Committee of the Gayamsari Police, said that resolving criminal cases using a restorative justice approach is considered more effective because the resolution involves the perpetrator, victim, family and representatives from the community brought together in one meeting and deliberation in resolving the problem.<sup>21</sup>

The exercise of discretion by police investigators of course has different patterns and forms because it is influenced by circumstances and situations, social and economic conditions, as well as local culture

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17 Feby Reski Utami, Hamsir, *Penyelesaian Tindak Pidana Pencurian Ringan Berdasarkan Penyesuaian Batasan Tindak Pidana Ringan Dan Jumlah Denda*, *Alauddin Law Development Journal*, Vol. 3, No. 1, March 2021, page. 175-176

18 Imam Yuda Saputra, 2021, 8 Polsek Di Semarang Tak Lagi Boleh Penyelidikan, Ini Dasarnya, *Solopos.Com*, (<https://www.solopos.com/8-polsek-di-semarang-tak-lagi-boleh-penyelidikan-ini-dasarnya-111619>) Accessed on 20 June 2022 at 14.30 WIB

19 Edi Ribut Harwanto, 2021, *Keadilan Restoratif Justice*, Lampung, Penerbit Laduny, page.4-6

20 Bojongnews.Com, 2019, Bripka Sugeng Terapkan Restorative Justice System Pada Masalah Rumah Tangga, (<http://bojongnews.semarangkota.go.id/detailpost/bripka-sugeng-terapkan-restorative-justice-system-pada-masalah-rumah-tangga>) Accessed on 20 June 2022 at 14.36 Wib

21 Results of the Author's Interview with the Criminal Investigation Committee of the Gayamsari Police on April 12 2022

and law.<sup>22</sup> Restorative justice, as an alternative approach to conventional punitive measures, introduces a multi-faceted perspective when addressing criminal acts.<sup>23</sup> From the viewpoint of the perpetrator, it is crucial to consider their underlying motives for committing the crime, taking into account factors such as socio-economic conditions, the potential for rehabilitation, and the willingness to make amends. This approach places emphasis on not only preventing the recurrence of criminal behavior but also on acknowledging personal responsibility and offering avenues for redemption. Furthermore, from the victim's perspective, the willingness to engage in a resolution process without coercion is pivotal. Restorative justice seeks to empower victims by giving them a voice in the process and the choice to forgive the perpetrator if they see fit. This, in turn, promotes healing and provides an opportunity for both parties to find closure.<sup>24</sup>

It's important to note that restorative justice is typically applied to cases of minor crimes, as opposed to cases that severely disrupt societal order, such as murder or rape.<sup>25</sup> By focusing on less severe offenses, restorative justice can offer a means to rebuild trust, repair harm, and reestablish a sense of justice within the community. However, it is essential to acknowledge the limitations of this approach and recognize that it may not be suitable for addressing the most serious and heinous crimes.

Settlement of cases through restorative justice efforts has been considered good and effective because it can reduce the budget used for Correctional Institutions (LAPAS).<sup>26</sup> People who commit criminal acts do not have to resolve cases through court because of the high costs, and through restorative justice problems are resolved together together, so that the goal of law, namely justice, can be achieved.<sup>27</sup> Apart from that, it is also able to make the handling of criminal cases flexible, not rigid, and can be resolved quickly, thereby saving time, costs and energy.<sup>28</sup>

Based on the results of an interview with Aipda Rheinanto as the Administrative Officer (Bamin) Criminal Investigation Unit of the

22 Gatot Eddy Pramono, Mexsasai Indra, Oce Madril, *Kewenangan Dan Diskresi Kepolisian Di Indonesia*, Jakarta, Rajawali Pers, 2022, page.175

23 Edwin Apriyanto, 2016, Penerapan Restorative Justice Sebagai Bentuk Diskresi Kepolisian Dalam Penyelesaian Perkara Tindak Pidana Penipuan Di Polrestabes Semarang, *Jurnal Spektrum Hukum*, Vol. 13, page. 62

24 Ibid.,

25 Sri Wiyanti Eddyono, 2021, Restorative Justice for Victim's Rights on Sexual Violence: Tension in Law and Policy Reform in Indonesia, *Journal of Southeast Asian Human Rights*, Vol. 5, Issue. 2, December, page. 184

26 Chalisna Paristiana Putri, 2023, Efektivitas Penerapan Restorative Justice Dalam Penanganan Kasus Kecelakaan Lalu Lintas Di Kepolisian Resor Kota Surakarta, *Legal Standing*, Vol. 7, No. 2, April, page.236

27 Joko Sriwidodo, 2021, The Efforts of Attorney Offices to Resolve Criminal Cases Based on the Concept of Restorative Justice, *Substantive Justice*, Vol. 4, No. 1, June, page. 4

28 Muhamad Aksan Akbar, La Ode Awal Sakti, Faisal Herisetiawan Jafar, Penerapan Restorative Justice Dalam Perkara Korupsi Sebagai Wujud Peradilan Sederhana, Cepat, dan Biaya Ringan, *Jurnal Ius Constituendum*, Vol. 8, No. 2, June 2023, page.254-255

Gayamsari Police, that during the last 3 (three) years starting in 2020, 2021 and 2022 the number of Police Reports (LP) received by the Gayamsari Semarang Police was 50 (fifty) case. The data given by Gayamsari Semarang Police offers a comprehensive overview of the criminal activity reported at the Gayamsari Police Station in Semarang over the span of three years, from 2020 to 2022. During this period, a noticeable decrease in the number of police reports was observed. In 2020, there were 25 reports, which decreased to 15 in 2021, and further down to 10 in 2022, resulting in a total of 50 police reports over the three years. It is essential to acknowledge the significant drop in reported incidents, indicating a positive trend towards a safer community.

When delving into the types of crimes frequently reported, theft and embezzlement emerged as the most prevalent issues in the area, accounting for 25 out of the 50 police reports in total. This high incidence of theft cases is reflective of the common property-related crimes faced by the local community. Focusing specifically on the year 2022, the breakdown of theft crimes reveals a more detailed picture. Among the reported theft cases in 2022, ordinary theft accounted for five cases, petty theft for two cases, while aggravated theft, violent theft, and theft in the family environment were reported in no instances. This data illustrates a specific distribution of theft-related incidents, highlighting the varying degrees of severity in these cases.

In sum, the data showcases a decreasing trend in overall criminal activity within the Gayamsari Police Station's jurisdiction, with theft and embezzlement being the most frequently reported crimes, particularly in the context of the year 2022, where different categories of theft incidents were documented. These statistics provide valuable insights into the criminal landscape of the area and can inform law enforcement and community efforts to address and prevent such occurrences in the future.

Based on the data shown above, the Gayamsari Semarang Police have implemented the resolution of criminal cases using restorative justice in 4 (four) cases, namely abuse, beatings, domestic violence (KDRT), and simple theft. Settlement of criminal cases using restorative justice will be carried out in 2022, this is in accordance with Perkapolri No. 8 of 2021 concerning the application of restorative justice in resolving criminal cases, namely that the reporting party and the reported party agree to resolve it amicably. Meanwhile, criminal cases do not use restorative justice resolution efforts, this is because the National Police Chief Regulation No. 8 of 2021 was passed in 2021 and the implementation of restorative justice began in June 2021, therefore throughout 2021 the Gayamsari Police were among the police that did not carry out investigations, the Gayamsari Police did not receive Police Reports (LP) and in 2022 the Gayamsari Police carried out them again. receipt of Police Report (LP). Meanwhile, in 2020, the Gayamsari Police did not implement restorative justice because National Police Chief

Regulation No. 8 of 2021 concerning the application of restorative justice in resolving criminal cases.<sup>29</sup>

A series of resolutions of criminal acts through a restorative justice approach at the Gayamsari Police:

The process of handling criminal cases through a restorative justice approach at the Gayamsari Police Station in Semarang involves a systematic series of steps.<sup>30</sup> It all begins with the filing of a report or complaint by an individual, signaling the initiation of the criminal justice process. This report can be made either orally or in writing and serves as the foundation for further investigation. Once an investigation order is issued and an investigator is appointed, a crucial step is the notification to the public prosecutor, marked by the Notice of Commencement of Investigation (SPDP). This notification not only ensures transparency in the investigative process but also acts as a check and balance mechanism within the criminal justice system.<sup>31</sup>

Subsequently, the case title process formalizes the investigation, requiring the presence of both the reporter and the reported party. The success of the investigation largely hinges on their cooperation. Following this, examinations and expert consultations are conducted to collect evidence and gain a clearer perspective on the case. The investigator is then mandated to create an investigation report, detailing the time, location, findings, challenges faced, and recommendations. This report is shared with the officer who issued the order, and it helps shape the subsequent steps in the process. A distinctive aspect of the restorative justice approach is the bringing together of victims, perpetrators, their families, and community leaders in a collaborative meeting.<sup>32</sup> Here, they discuss potential resolutions, including the victim's desired outcomes and the perpetrator's capacity to take responsibility and restore what was lost.

The deliberations from these meetings are formalized into a peace statement or collective agreement, duly signed by all parties involved. This agreement encapsulates the agreed-upon terms and conditions for resolving the matter. In some cases, the person who initially filed the complaint has the option to withdraw it within three months, according to the Criminal Code.<sup>33</sup> This withdrawal can halt the legal proceedings in certain complaint-related offenses. The process may ultimately culminate in the termination of the investigation, marked by an Investigation Termination Order (SP3), which is conveyed to the public prosecutor. All

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29 Hasil Wawancara Dengan Bamin Reskrim Polsek Gayamsari Pada Tanggal 28 Juli 2022

30 Results of Interview with the Criminal Investigation Committee of the Gayamsari Police on April 12, 2022

31 Trias Saputra, Jatarda Mauli Hutagalung, 2022, Pentingnya Surat Pemberitahuan Dimulainya Penyidikan (Spdp) Bagi Para Pihak Demi Terciptanya Due Proses Of Law, *IBLAM Law Review*, Vol. 2, No. 2, May, page. 5

32 Joko Sriwidodo, 2020, *Perkembangan Sistem Peradilan Pidana Di Indonesia*, Yogyakarta, Penerbit Kepel Press, page. 142

33 Hanafi Amrani, *Politik Pembaharuan Hukum Pidana*, Yogyakarta, UII Press, 2019, page. 119



parties, including the suspect, their family, and the reporter, are informed to maintain transparency and access for interested parties to assess the legitimacy of the termination.

This holistic and collaborative approach to handling cases was exemplified in a particular ordinary theft case, in which the Gayamsari Police employed restorative justice principles to reach a resolution. Such a process reflects a comprehensive and community-oriented model of addressing criminal acts, emphasizing dialogue, reconciliation, and the restoration of justice.

## **2. The Obstacles to Resolving Ordinary Crimes of Theft Through Restorative Justice**

Resolving ordinary theft crimes through a restorative justice approach offers a humane and ethical alternative to the conventional punitive methods. However, this approach encounters several significant obstacles during implementation. One primary challenge is the difficulty of achieving agreement between the victim and the perpetrator. In cases of theft, victims often suffer deeply from their losses, while perpetrators may be reluctant to admit guilt or make amends. This lack of consensus can impede the restorative justice process, which relies on the voluntary participation and cooperation of both parties. Another obstacle is the negative societal perception of the police and the broader criminal justice system.<sup>34</sup> Many individuals perceive law enforcement as biased, leaning towards protecting perpetrators rather than victims. This deep-seated mistrust can discourage victims and offenders from participating in a restorative justice process, as they may fear that it will lack fairness and justice.<sup>35</sup>

Moreover, in certain cases, the financial demands placed on the offender for restitution may be excessive or unrealistic. This can create significant challenges for the offender in terms of compensating for their wrongdoings and meeting the financial obligations imposed as part of the restorative justice process, potentially undermining its effectiveness.<sup>36</sup> Resistance to forgiveness poses another hurdle. Victims and their families may be reluctant to forgive the perpetrator, especially if the emotional and psychological impact of the crime is severe. This resistance to forgiveness can prolong the resolution process and limit the success of restorative justice in such cases.

The application of a restorative justice approach in resolving ordinary theft crimes at the Gayamsari Police Station in Semarang comes

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34 Maidina Rahmawati, Et Al, 2022, *Peluang dan Tantangan Penerapan Restorative Justice dalam Sistem Peradilan Pidana di Indonesia*, Jakarta, Institute for Criminal Justice Reform, page. 154

35 Widyani Putri, 2022, Apakah Restorative Justice Sejalan Dengan Nilai-Nilai Hukum Dan Rasa Keadilan Yang Hidup Dalam Masyarakat Indonesia?, *Gema Keadilan*, Vol. 9, No. 2, November, page. 81-92

36 Budiono Saputro, Et Al, 2022, Juridical Review Settlement Of Traffic Accident Cases That Caused The Victims Death With A Restorative Justice Approach (Research At The Asahan Resort Police Traffic Unit), *Jurnal Retentum*, Vol. 4, No. 1, March, page. 155-156

with its share of obstacles.<sup>37</sup> These challenges present a complex landscape for investigators and the community. First, resistance from the victim or the victim's family to reconcile can hinder the progress of restorative justice. In some cases, these parties may have deep-seated grievances or demands that prove difficult to address through the reconciliation process. Secondly, capturing the perpetrator of a theft, especially if they manage to escape, can be a significant hurdle. The ability to apprehend the perpetrator is essential for the successful implementation of restorative justice.

Third, demands for extensive compensation from the victim and their family can pose a dilemma, especially if the perpetrator and their family lack the financial means to meet these expectations. This can create a roadblock in achieving a mutually agreeable resolution. Fourth, there is often a lack of understanding in the broader public regarding the principles and implementation of restorative justice. This can result in negative stigmatization from the community, hindering the acceptance and effectiveness of this approach. Fifth, community members may be hesitant to cooperate with the police in resolving cases peacefully, believing that law enforcement officers are more inclined to defend perpetrators. Such mistrust can undermine the restorative justice process. Lastly, limited facilities and infrastructure, as well as difficulties in agreeing on suitable meeting times, can have a practical impact on the resolution of cases. These logistical challenges can slow down the process and make it more cumbersome.

In conclusion, the restorative justice approach to resolving ordinary theft crimes at the Gayamsari Police Station is indeed a noble and community-oriented effort. However, it faces several significant obstacles, including resistance from victims or their families, difficulties in capturing perpetrators, financial disputes, a lack of public understanding, mistrust towards law enforcement, and logistical limitations. These challenges highlight the need for awareness campaigns, improved logistics, and ongoing efforts to build trust and understanding within the community to enhance the effectiveness of restorative justice in addressing such crimes.

### **3. The Solutions to Resolving Obstacles to Resolving Ordinary Theft Crimes Through Restorative Justice**

The Gayamsari Police Station in Semarang has been proactive in addressing the challenges and constraints in implementing restorative justice as a means to resolve cases.<sup>38</sup> These efforts signify a commitment to creating a more harmonious and law-abiding community.

Firstly, they have adopted a hands-on approach by entrusting the mediation or deliberation process directly to the perpetrator and victim,

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37 Results of Interview with the Criminal Investigation Committee of the Gayamsari Police on April 12, 2022

38 Based on the author's interview with the Criminal Investigation Committee of the Gayamsari Police on April 12, 2022

alongside their families. Community representatives can also participate as mediators, while the police serve as facilitators. This approach empowers the involved parties to actively engage in the resolution process, fostering a sense of ownership and responsibility. Secondly, the police prioritize the protection of both the perpetrator and the victim, ensuring that the process remains equitable. This not only upholds the principles of justice but also fosters an environment where individuals feel safe and respected throughout the proceedings.

Thirdly, efforts have been made to bridge the gap between the police and the community, aiming to build positive relations and promote legal awareness. This initiative is vital for dispelling negative perceptions of law enforcement officials and creating a supportive environment for restorative justice practices. Moreover, the Gayamsari Police have been actively conducting outreach to educate the community about case resolution using a restorative justice approach. By spreading the message that many problems can be resolved amicably, they encourage a more peaceful and cooperative society. Lastly, the police have instituted strict supervision during the mediation or deliberation process to prevent any potential misuse of the case resolution method. This oversight ensures that the process remains true to its intentions, focusing on restoration and reconciliation.

The innovative and community-centered efforts undertaken by the Gayamsari Police demonstrate a commitment to overcoming the challenges of implementing restorative justice. By involving the parties directly, prioritizing protection, nurturing positive police-community relations, conducting educational outreach, and maintaining vigilant oversight, they pave the way for a more peaceful and harmonious society where conflicts can be resolved amicably and justly. These measures exemplify the potential of restorative justice in fostering a sense of responsibility and creating a more equitable and understanding community.

#### **D. CONCLUSION**

Resolving ordinary theft crimes through a restorative justice approach involves initiating the process with a formal report or complaint. This is followed by the issuance of a task order and an investigation warrant. Subsequently, a case title is established, ensuring its alignment with the investigation plans. The next steps encompass summoning witnesses and suspects, compiling reports on the investigation's findings, and arranging a meeting between the victim and the perpetrator. During this meeting, efforts are made to facilitate a joint agreement or statement, with the possibility of the victim withdrawing the police report. In some cases, an order to halt the investigation is issued, leading to the conclusion of the case. Investigating such cases under a restorative justice framework encounters certain obstacles. One significant challenge is the difficulty of reaching an agreement between the two parties, as they may struggle to find common ground. Additionally, there is a prevailing societal stigma

against law enforcement, with police often viewed as protective of the perpetrators rather than the victims. Moreover, excessive monetary demands placed on the offender can hinder their ability to make restitution for the losses incurred, which is an essential part of restoring the victim's rights and fostering a sense of responsibility. Furthermore, victims and their families may be unwilling to forgive the perpetrators, resulting in delays in the resolution of the cases under consideration. To address these challenges, it is suggested that the mediation or deliberation process be entrusted to the perpetrator and the victim themselves, with a focus on ensuring the protection and well-being of both parties. Additionally, efforts should be made to engage with the community, conduct outreach activities, and establish effective oversight of the mediation or deliberation process to ensure its smooth and equitable execution.

## BIBLIOGRAPHY

### Books:

- Aristo Pengaribuan, dkk., 2018, *Pengantar Hukum Acara Pidana Di Indonesia*, Rajawali Pers, Depok;
- Edi Ribus Harwanto., 2021, *Keadilan Restoratif Justice*, Penerbit Laduny, Lampung;
- Gatot Eddy Pramono., 2022, *Mexasai Indra, Oce Madril, Kewenangan Dan Diskresi Kepolisian Di Indonesia*, Rajawali Pers, Jakarta;
- Hanafi Amrani., 2019, *Politik Pembaharuan Hukum Pidana*, UII Press, Yogyakarta;
- Irwansyah., 2021, *Penelitian Hukum: Pilihan Metode dan Praktik Penulisan Artikel (Edisi Revisi)*, Mirra Buana Media, Yogyakarta;
- Joko Sriwidodo., 2020, *Perkembangan Sistem Peradilan Pidana Di Indonesia*, Penerbit Kepel Press, Yogyakarta;
- Maidina Rahmawati., Et Al, 2022, *Peluang dan Tantangan Penerapan Restorative Justice dalam Sistem Peradilan Pidana di Indonesia*, *Institute for Criminal Justice Reform, Jakarta*;

### Journals:

- Bastianto Nugroho., Et Al, Implementasi Kebijakan Restorative Justice System Pada Penyalahgunaan Narkotika Dan Psikotropika, *Maksiagama*, Vol. 14, No. 1, May 2020;
- Budiono Saputro., Et Al, Juridical Review Settlement Of Traffic Accident Cases That Caused The Victims Death With A Restorative Justice Approach (Research At The Asahan Resort Police Traffic Unit), *Jurnal Retentum*, Vol. 4, No. 1, March 2022;

- Chalisna Paristiana Putri., Efektivitas Penerapan Restorative Justice Dalam Penanganan Kasus Kecelakaan Lalu Lintas Di Kepolisian Resor Kota Surakarta, *Legal Standing*, Vol. 7, No. 2, April 2023;
- Edwin Apriyanto., Penerapan Restorative Justice Sebagai Bentuk Diskresi Kepolisian Dalam Penyelesaian Perkara Tindak Pidana Penipuan Di Polrestabes Semarang, *Jurnal Spektrum Hukum*, Vol. 13, Untag Semarang, 2016;
- Erni Panca Kurniasih., Dampak Pandemi Covid 19 Terhadap Penurunan Kesejahteraan Masyarakat Kota Pontianak, *Prosiding Seminar Akademik Tahunan Ilmu Ekonomi dan Studi Pembangunan, Universitas Tanjung Pura*, 2020;
- Febriansyah, Rozi Yudha., Delik-Delik Diluar Kuhp (Tindak Pidana Cyber Crime Dan Cara Penanggulangan), *Jurnal Hasil Penelitian*, Vol. 3, No.1, January, 2018;
- Feby Reski Utami, Hamsir., Penyelesaian Tindak Pidana Pencurian Ringan Berdasarkan Penyesuaian Batasan Tindak Pidana Ringan Dan Jumlah Denda, *Alauddin Law Development Journal*, Vol. 3, No. 1, March 2021;
- Henny Saida Flora., The Living Law's Restorative Justice: Implementation of Restorative Justice as an Integrative Mechanism in Criminal Law, *Unram Law Review*, Vol. 7, No. 1, April 2023;
- Joko Sriwidodo., 2021, The Efforts of Attorney Offices to Resolve Criminal Cases Based on the Concept of Restorative Justice, *Substantive Justice*, Vol. 4, No. 1, June;
- Luh Putu Adelia Anggraeni., Ni Putu Rai Yuliantini, Dewa Gede Sudika Mangku, Implementasi Restorative Justice Dalam Penyelesaian Tindak Pidana Pencurian Yang Dilakukan Oleh Anak Di Kepolisian Resor Buleleng, *Jurnal Komunitas Yustisia*, Vol. 4, No. 2, August 2021;
- Mochamad Sahid, Kebijakan Hukum Pidana Dalam Menanggulangi Tindak Pidana Penipuan Tenaga Kerja Di Indonesia, *Jurnal Ilmu Hukum : Media Hukum Sekolah Tinggi Hukum Garut*, Vol. 1, No. 1, 2022
- Muhamad Aksan Akbar, La Ode Awal Sakti, Faisal Herisetiawan Jafar., Penerapan Restorative Justice Dalam Perkara Korupsi Sebagai Wujud Peradilan Sederhana, Cepat, dan Biaya Ringan, *Jurnal Ius Constituendum*, Vol. 8, No. 2, June 2023;
- Nadya Novina Kusuma., Legalitas Alat Bukti Berupa Keterangan Saksi Korban Sedarah Pada Tindak Pidana Pencurian Dalam Lingkup Keluarga, *Jurnal Hukum Acara Verstek*, Universitas Sebelas March, 2018;
- Nur Indra Socawibawa, Arif Wibowo., Independensi Kekuasaan Kehakiman Hukum Acara Mahkamah Konstitusi, *Jurnal Penelitian Multi Disiplin*, Vol. 2, No. 1, Februari, 2023;

Sanjaya, Umar Haris., Pembangunan Hukum Arbitrase (Politik Hukum) Sebagai Upaya Penyelesaian Sengketa (Tinjauan Atas Undang-Undang No. 30 Tahun 1999 Tentang Arbitrase Dan Alternatif Penyelesaian Sengketa), *Jurnal Yuridis*, Vol. 02, No. 2, 2015;

Sri Wiyanti Eddyono., Restorative Justice for Victim's Rights on Sexual Violence: Tension in Law and Policy Reform in Indonesia, *Journal of Southeast Asian Human Rights*, Vol. 5, Issue. 2 December 2021;

Trias Saputra, Jatarda Mauli Hutagalung., Pentingnya Surat Pemberitahuan Dimulainya Penyidikan (Spdp) Bagi Para Pihak Demi Terciptanya Due Proses Of Law, *IBLAM Law Review*, Vol. 2, No. 2, May 2022;

Widyani Putri., Apakah Restorative Justice Sejalan Dengan Nilai-Nilai Hukum Dan Rasa Keadilan Yang Hidup Dalam Masyarakat Indonesia?, *Gema Keadilan*, Vol. 9, No. 2, November 2022;

### **Regulations:**

Republic of Indonesia State Police Regulation No. 8 of 2021 concerning Handling of Crime Based on Restorative Justice;

### **Websites:**

Imam Yuda Saputra, 2021, 8 Polsek Di Semarang Tak Lagi Boleh Penyelidikan, Ini Dasarnya, Solopos.Com, (<https://www.solopos.com/8-polsek-di-semarang-tak-lagi-boleh-penyelidikan-ini-dasarnya-111619>) Accessed on 20 June 2022 at 14.30 WIB;

Bojongnews.Com, 2019, Bripka Sugeng Terapkan Restorative Justice System Pada Masalah Rumah Tangga, (<http://bojongnews.semarangkota.go.id/detailpost/bripka-sugeng-terapkan-restorative-justice-system-pada-masalah-rumah-tangga>) Accessed on 20 June 2022 at 14.36 WIB;

### **Interview:**

Results of the Author's Interview with the Criminal Investigation Committee of the Gayamsari Police on April 12 2022;

Results of Interview with Bamin Criminal Investigation Unit of Gayamsari Police on July 28 2022.