

Law Enforcement Against Criminal Acts of Theft Based on Restorative Justice at the Banggai District Attorney's Office

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Abstract. *This study aims to determine and analyze law enforcement against justice-based theft crimes in the Banggai District Attorney's Office, along with obstacles and solutions. This study uses a sociological juridical approach, descriptive analytical research specifications. The data used are primary and secondary data. Data collection methods include field studies and literature studies, and the data analysis method is qualitative. Law enforcement against justice-based theft crimes in the Banggai District Attorney's Office is in line with Perja Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. Obstacles in resolving justice-based theft crimes in the Banggai District Attorney's Office are the absence of post-case settlement monitoring, limited time for resolving cases based on restorative justice, the failure to reach a peaceful agreement between the perpetrator and the victim, and the community's negative view of restorative justice.*

Keywords: *Law Enforcement; Restorative Justice; Theft Crime.*

1. Introduction

Indonesia as a country based on law upholds the law and human dignity in relation to law and government, and is obliged to enforce the law without exception.¹ Wiener defines law as a system of ethical control applied to communication systems. The legal form is a norm that is the product of a central authority that has the authority to create and enforce laws.² As a social institution, law was created by humans to maintain order. Law lives and develops in accordance with the values of its society.³ Criminal law is one of a number of areas of law, which contains regulations that determine what actions are not permitted, including criminal acts, and also determines what punishments can be given to perpetrators.⁴ One form of crime regulated in the Criminal Code is the crime of theft, which is regulated in Articles 362 to 367 of the Criminal Code (KUHP).

The most frequently used punishment for theft is imprisonment (penalty), which ultimately creates a situation of high dependence on the use of imprisonment without considering the interests of the victim. This leads to problems of overcrowding in State Detention Centers (Rutan) and Correctional Institutions (Lapas).⁵ Imprisonment is a form of punishment that is inconsistent with the importance of providing rehabilitation for victims. The placement of inmates in detention centers and prisons that are already overcrowded results in a lack of focus on the treatment, guidance, and supervision of convicts. This results in correctional institutions becoming a place for convicts to hone their skills and imitate the criminal behavior of other convicts.⁶

¹Lailatul Nur Hasanah & Sri Endah Wahyuningish, The Application of Justice Principles Of Rapid Simple Fee In Criminal Justice System In The State Court (Case Study in State Court of Pati), *Journal of Law Daulat*, Volume 2 No. 4, December 2019, p. 610

²Lukman Santoso, Perbandingan Sistem *Civil law* dan Hukum Islam Serta Interaksinya dalam Sistem Hukum Indonesia, *Jurnal Hukum*, Vol. 13 Nomor 2, 2016, p. 193

³Pujiyono, (2007), *Kumpulan Tulisan Hukum Pidana*, Bandung : Mandar Maju, p. 66

⁴Muchsin, (2006), *Ikhtisar Ilmu Hukum*, Jakarta : Badan Penerbit Iblam, p. 84

⁵Waspada Pencurian Menjadi Kejahatan yang Paling Banyak terjadi Selama 2024, <https://goodstats.id>, accessed on 15 may 2025.

⁶Maidina Rahmawati, et all, (2022), *Peluang dan Tantangan Penerapan Restorative Justice dalam Sistem Peradilan Pidana di Indonesia*, Jakarta : Institute for Criminal Justice Reform, p. 36.

Law enforcement of the crime of theft can be resolved through restorative justice. Considering that many theft cases that could have been resolved through mediation are still resolved through the courts, restorative justice can balance the interests of recovery and the rights of victims, improving the perpetrator by encouraging them to take responsibility for their mistakes, ultimately achieving justice that improves the situation for all parties. At the investigation, prosecution, and court levels, cases can be resolved through a restorative justice approach. If restorative justice is not achieved at the investigation level, it can be implemented at the prosecution level (at the prosecutor's office). The prosecutor's office, as the case controller, plays a central role in implementing restorative justice by issuing a letter of termination of prosecution based on the principle of opportunity in the interests of justice. At the prosecution level, law enforcement against the crime of theft based on restorative justice is guided by Prosecutor's Regulation (Perja) Number 15 of 2020 concerning Termination of Prosecution. Article 5 paragraph (1) of Perja Number 15 of 2020 states that a criminal case can be closed by law and its prosecution stopped based on restorative justice if the following conditions are met: first, the suspect has committed a crime for the first time; second, the crime is only threatened with a fine or is threatened with imprisonment of no more than five years; and third, the crime is committed with the value of the evidence or the value of the loss caused by the crime not exceeding IDR 2,500,000. In addition, the explanation of Article 37 paragraph (1) of Law Number 16 of 2004 concerning the Prosecutor's Office as amended in Law Number 11 of 2021 (Prosecutor's Office Law) states that as a manifestation of restorative justice, prosecution is carried out by weighing legal certainty and its benefits.

The Banggai District Attorney's Office has resolved a theft case based on restorative justice. The facilitator prosecutor initiated the resolution of this case through restorative justice mechanisms after reaching a peace agreement. In practice, resolving theft crimes based on restorative justice faces several challenges. One is that not all theft cases can be resolved restoratively. Therefore, prosecutors must thoroughly determine whether the case is suitable for resolution based on restorative justice. Furthermore, agreement between both parties is crucial for the success of law enforcement based on restorative justice. This study aims to examine and analyze law enforcement against the crime of theft based on justice at the Banggai District Attorney's Office and analyzing obstacles and solutions.

2. Research Methods

This research uses a sociological juridical approach, with descriptive analytical research specifications. The data used are primary and secondary data. Data collection methods include field studies and literature reviews, and data analysis

methods are qualitative. The theories used in this research are the Pancasila justice theory and the legal certainty theory.

3. Results and Discussion

3.1. Law Enforcement Against Criminal Acts of Theft Based on Restorative Justice at the Banggai District Attorney's Office

Punishment, which has historically focused on retribution and the act, should be abandoned and shifted to restorative punishment, particularly for the victim. In the retributive concept, victims of crime are not only victims of the perpetrator's actions, but also victims of our rigid criminal justice system, which excludes victims from determining the outcome of the crime committed against them. Victims should be given the opportunity to participate, particularly in their recovery after the crime.⁷

Case resolution based on restorative justice is also implemented to reduce overcrowding in prisons, which has been happening for a long time, and even seems to be "allowed" because the regulations in place do not support resolving overcrowding in prisons.

The Banggai District Attorney's Office resolved 35 theft cases between 2024 and 2025, four of which were resolved through restorative justice. For further details, see the details of the resolution of theft cases through restorative justice.

Table

Theft Case at the Banggai Prosecutor's Office

Year	Amount	Completion (Continued/RJ)
2024	22	2
2025	13	2

Source: Banggai District Attorney's Office, 2025

⁷*Ibid*

Regarding the crime of theft that can be resolved with restorative justice at the Banggai District Attorney's Office based on Prosecutor's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice and Circular Letter of the Deputy Attorney General for General Crimes Number: 01/E/EJP/02/2022 concerning the Implementation of Termination of Prosecution Based on Restorative Justice.

The resolution of the case based on restorative justice in this case has fulfilled the requirements for the implementation of RJ, namely:⁸

1. The suspect committed a crime for the first time;
2. The value of the victim's losses reached IDR 5,000,000 (five million rupiah);
3. The article violated by the suspect is Article 362 of the Criminal Code with a maximum criminal penalty of 5 (five) years.

The procedures for implementing justice in the Aprianto Tamahatta case include:⁹

1. Conducting mediation during the handover of suspects and evidence (Stage II);
2. Issue a Letter of Order from the Head of the Banggai District Attorney's Office to appoint a Facilitator Prosecutor in Peace Efforts;
3. The Facilitator Prosecutor attempts to make peace by issuing a Summons Letter to the relevant parties to attend the peace efforts;
4. Making peace efforts attended by the Banggai District Attorney, the Facilitator Prosecutor, the Head of the General Crimes Section, the suspect, the victim, the suspect's family, the victim's family, religious leaders, community leaders, and investigators handling the a quo case, at the Hunduhon Village Office, East Luwuk District, Banggai Regency.
5. Conduct profiling of the suspect's daily life and residence;
6. Submit a case title application to the Deputy Attorney General for General Crimes through the Head of the Central Sulawesi High Prosecutor's Office

⁸ Arif Septria Hendra Saputra, Gunarto & Lathifah Hanim, Penerapan Restoratife Justice Sebagai Alternatif Penyelesaian Tindak Pidana Penganiayaan Di Satreskrim Polsek Lasem, *Jurnal Daulat Hukum*, Volume 1 Nomor 1, March 2018, p. 185.

⁹Purwadi Arianto, (2013), *Pendekatan Restorative Justice Dalam Upaya Penegakan Hukum Oleh POLRI (Suatu Kajian Dalam Penerapan Hukum Pidana)*, Seminar Nasional Dir Reskrim Polda Jateng, Semarang, p.5

After the case resolution based on restorative justice is approved by the Deputy Attorney General for General Crimes (JAM Pidum), a Case Resolution Decree is submitted to the suspect.¹⁰

Based on the description above, it can be seen that the law enforcement of the crime of theft based on restorative justice at the Banggai District Attorney's Office has been carried out based on restorative justice. In the example case, it is known that the loss suffered by the victim due to the crime of theft amounted to Rp 5,000,000, but was still resolved based on restorative justice. This is because the stolen goods had not been sold by the suspect, so they could be returned to their owner. Furthermore, an agreement was reached between the perpetrator and the victim to resolve the case based on restorative justice.

In the aforementioned case, the community's response to resolving the theft based on restorative justice was positive and supportive. This was due to the suspect's role as the family breadwinner and his active involvement in the community.

3.2. Obstacles and Solutions to Resolving Theft Crimes Based on Restorative Justice at the Banggai District Attorney's Office

Law enforcement of the crime of theft based on restorative justice at the Banggai District Attorney's Office sometimes also encounters several obstacles, namely:¹¹

1. There is no post-settlement monitoring

In the crime of theft, after the case has been resolved, there is no regular monitoring/supervision, so the post-settlement conditions based on restorative justice for the suspect are still not well organized. Similarly, in the case of the application of restorative justice in the case of Aprianto Tamahatta, there was no monitoring of the post-implementation conditions of the suspect in terms of determining the work to be given to the suspect.

The solution to overcome these obstacles is to coordinate with the Banggai Regency Social Services to find employment that matches the suspect's potential/skills.

2. Time limitations for resolving cases based on restorative justice

¹⁰La Ode Rinaldi Muchlis, Restorative Justice Pelaku Dewa sebagai Momentuk Pembaharuan Hukum Pidana, <https://www.ditjenpas.go.id>, accessed on 28 August 2025

¹¹Interview with Anak Agung Gede Agung Kusuma Putra, as Head of the General Crimes Section at the Banggai District Attorney's Office, dated August 28, 2025

Article 9 paragraph (5) of Regulation Number 15 of 2020 stipulates that the peace process and fulfillment of obligations in resolving disputes based on restorative justice shall be carried out within a maximum of 14 days from the handover of responsibility for the suspect and evidence (stage two). In the case of a peace agreement after fulfillment of obligations is carried out unconditionally, this is not a problem, however, if the peace agreement is made with conditions, it may take more than 14 days. Thus, within this time, the perpetrator must provide compensation to the victim in the event that the stolen goods have been used up, so that they cannot be returned in the form of goods. If the time has passed 14 days, while the perpetrator has not fulfilled the obligations, the agreement can be considered failed and the case will continue to the judicial process.

The solution to overcome these obstacles is to implement a peace settlement effort on the same day as the investigators hand over the suspect and evidence to the public prosecutor (Stage II). With this policy, it is hoped that the perpetrator will fulfill their obligations before the deadline expires, thereby fulfilling the requirements.

3. A peaceful agreement was not reached between the perpetrator and the victim.

Restorative justice-based law enforcement for theft crimes prioritizes mutual agreement between the parties to resolve the case. In practice, even though the facilitating prosecutor has attempted mediation in handling theft crimes, the parties sometimes fail to find common ground, resulting in no settlement agreement. This is particularly true when the victim wants the perpetrator to receive appropriate punishment.

The solution to overcome these obstacles is for the prosecutor to explain to the parties that mediation is expected to resolve the issue peacefully. However, if an amicable agreement cannot be reached, the theft case will proceed to prosecution.

4. There are still people who view restorative justice negatively.

Some people still believe that restorative justice for theft is a concern, as it could lead to the perpetrator repeating similar crimes and becoming more daring, leading to concerns about becoming the next victim. This has led to the belief that perpetrators of theft should be punished to provide a deterrent effect.

The solution to overcome these obstacles is to educate the public about resolving theft through restorative justice, which offers solutions for both victims and perpetrators. Furthermore, resolving crimes through restorative justice is significantly less expensive than continuing the legal process.

4. Conclusion

Law enforcement against justice-based theft crimes at the Banggai District Attorney's Office is in line with Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. Obstacles in resolving justice-based theft crimes at the Banggai District Attorney's Office include the lack of post-case monitoring, limited time for resolving cases based on restorative justice, the failure to reach a peaceful agreement between the perpetrator and the victim, and the continued negative perception of restorative justice among the public. Therefore, going forward, a policy of monitoring perpetrators of criminal acts after resolution based on restorative justice is needed to discourage them from committing further crimes.

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