

## The Effectiveness of Implementing Restorative Justice in Resolving Theft Criminal Acts Based on Benefit (Case Study of The Grobogan District Attorney's Office)

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**Abstract.** *The concept of restorative justice is an alternative approach within the criminal justice system that aims to resolve criminal cases. Restorative justice emphasizes the integration of the perpetrator, victim, and community as a whole, in order to find solutions and restore harmonious relationships between the perpetrator and victim. Currently, restorative justice is increasingly being applied in resolving criminal cases. This is due to a paradigm shift in criminal law enforcement from retributive justice to restorative justice. This raises questions about how to apply the concept of restorative justice, its weaknesses, and the effectiveness of the concept of expediency-based restorative justice. The results of the discussion related to the problem concluded that the application of Restorative Justice in resolving the crime of theft is carried out through a penal mediation mechanism involving the perpetrator, victim, and law enforcement officers where the application of Restorative Justice faces significant weaknesses where in addition to not being regulated in the Criminal Procedure Code, there is ambiguity especially related to Article 5 paragraph (5) of Prosecutor's Regulation Number 15 of 2020, which does not provide clear guidelines or parameters for the Public Prosecutor in determining cases that can be stopped through a restorative justice approach. In addition, practical obstacles such as difficulty in building trust between the perpetrator and victim and low public legal understanding also affect the effectiveness of the implementation of this regulation, however, related to the effectiveness of the application of Restorative Justice based on benefits is seen in the reduced burden of petty theft cases in court and the acceleration of victim's loss recovery. However, this effectiveness still requires strengthening the support system to be consistent and sustainable.*

**Keywords:** *Penal Mediation Mechanism; Restorative Justice; Strengthening The Support System.*

## 1. Introduction

The establishment of a nation is essentially aimed at achieving prosperity for all its citizens. This goal is clearly stated in the Preamble to the 1945 Constitution of the Republic of Indonesia.<sup>1</sup>, which affirms that "then from that to form an Indonesian government that protects all the Indonesian people and all of Indonesia's homeland and advances general welfare, educates the nation's life and participates in implementing world order based on independence, eternal peace and social justice". This formulation affirms that the formation of the state creates a just national and state life.

Justice is a crucial aspect of law; law enforcement is an effort to seek justice. Law should be based on the principles of utility and the value of justice. Furthermore, good law must be understandable to all, applied consistently, be simple, and easy to enforce.<sup>2</sup>. Increasingly modern developments have also influenced the advancement of the rule of law, so alternative solutions are needed to address various problems within the framework of justice system reform.

The concept of restorative justice is an alternative approach within the criminal justice system that aims to resolve criminal cases. Restorative justice emphasizes the integration of the perpetrator, victim, and community as part of a single entity, in order to find solutions and restore harmonious relationships between the perpetrator and victim. A United Nations (UN) working group defines restorative justice as a process that involves all parties involved in a particular crime, working together to solve problems and respond to future consequences.

Bagir Manan is of the opinion<sup>3</sup>The principle of restorative justice is to build collaborative participation between perpetrators, victims, and the community to resolve the incident or crime that occurred. In this case, the perpetrator, victim, and community are positioned as stakeholders who work together to find a resolution that is considered fair for all parties. The main goal of restorative justice is to provide reparation for the impacts caused by the crime, in order to achieve sustainable improvement.Susan Sharpe argues<sup>4</sup>The application of

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<sup>1</sup> Jupri Jupri and Roy Marthen Moonti, "Legal discrimination in eradicating political corruption in the regions," *Dialogia Iuridica* 11, no. 1 (2019): 114–31.

<sup>2</sup> Fuzi Narin Drani, "Resolving Corruption Using Restorative Justice," *De Jure Legal Research Journal* 20, no. 4 (2020): 605–17.

<sup>3</sup> M Alvi Syahrin, "Application of the principle of Restorative Justice in an integrated criminal justice system," *National Law Magazine* 48, no. 1 (2018): 97–114.

<sup>4</sup>Hatta Ali, *Simple, Fast and Low-Cost Trials Towards Restorative Justice*, Bandung: PT Alumni, 2012, p. 321.

restorative justice encompasses five basic principles. First, active participation and consensus involving both the perpetrator and the victim to achieve a comprehensive resolution. Even the community affected by the perpetrator's actions can be involved in the process. Second, finding solutions that aim to restore and repair the wounds or damage caused by the criminal act. Third, ensuring full responsibility from the perpetrator, demonstrated through remorse and acknowledgment of the wrongdoing. Fourth, reintegrating the perpetrator into the community from which they were previously disconnected due to the crime. Fifth, empowering the community to prevent future crimes from occurring.

The application of Restorative Justice is one form of application of the concept of a modern legal system where it has a relationship with the adversarial criminal system, where one of the objectives of punishment in the adversarial criminal system is to resolve conflicts, where in both legal systems punishment is not the only end goal to achieve effective law enforcement, but there are various other ways that can be taken to achieve the objectives of criminal law, including creating order and justice, one of which is through the resolution of Restorative Justice, especially for cases that are classified as light and easy to resolve and there is an agreement from both parties (victim and perpetrator).

In the drafting of the new Criminal Procedure Code, the resolution of criminal cases through the Restorative Justice mechanism is included in the criminal justice system, where the Criminal Justice System approach functions as a mechanism for handling crimes with a systematic approach. Crime control policies, as part of law enforcement, must be able to place every component of the legal system on a conducive and participatory path in efforts to deal with crime. Remington and Ohlin argue that<sup>5</sup>The criminal justice system can be defined as the application of a systems approach to the criminal justice administration mechanism. Justice as a system is the result of the interaction between laws and regulations, administrative practices, and social attitudes or behavior.<sup>6</sup>. Understanding this system implies a rationally and efficiently designed interaction process, aimed at producing certain results, despite its limitations.

Currently, restorative justice is increasingly being applied in resolving criminal cases. This is due to a paradigm shift in criminal law enforcement from retributive justice to restorative justice, which was first developed in the United States. Historically, the concept of restorative justice was introduced by Albert

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<sup>5</sup> SH Tolib Effendi, *Criminal Justice System: a comparison of components and processes of the criminal justice system in several countries* (MediaPressindo, 2018).

<sup>6</sup>*Ibid*

Eglash in 1977, who grouped criminal justice into three categories: retributive justice, distributive justice, and restorative justice.<sup>7</sup>

The Retributive Justice paradigm views crime as a matter between the state and the individual perpetrator. In this view, laws established by the state aim to maintain order, peace, and security in society, and when these laws are violated by the perpetrator<sup>8</sup>, they must be held accountable for their actions. Retributive justice argues that the perpetrator's accountability must be enforced through the imposition of criminal sanctions. In this context, the victim's losses or suffering are considered to have been repaid and restored by the perpetrator through the criminal process they underwent. With the imposition of criminal sanctions, it can be said that both the substance and procedures for resolving criminal acts through the criminal law that have been implemented so far have provided almost no redress for the victims' suffering. So far, criminal sanctions have focused more on paying or atoning for the perpetrator's wrongdoing to the state, rather than reflecting the perpetrator's responsibility for their actions that harmed the victim. In fact, they are the ones who actually bear the suffering and losses resulting from the crime. Therefore, legal protection for crime victims as part of community protection must be realized through various forms, such as restitution and compensation, medical services, and legal assistance.<sup>9</sup>

Essentially, restorative justice is a step to shift the focus from the criminal justice process to resolution through penal mediation. However, this approach cannot always be applied to all types or levels of crime. Instead, restorative justice is more appropriate for minor crimes, such as some traffic cases, child cases, and domestic violence. Therefore, restorative justice is considered more capable of realizing the principles of simple, fast, and affordable justice, which are crucial for protecting the rights of both victims and perpetrators. The mediation mechanism, which is part of alternative dispute resolution (ADR), has been better known in the context of private law. Alternative dispute resolution itself is a concept that encompasses various ways of resolving conflicts other than through the judicial process, using methods that are legitimate according to the rule of law.

In resolving criminal cases, restorative justice positions the Prosecutor's Office as a facilitator in the settlement process based on the principle of peace. This principle of restorative justice has long been closely linked to the authority of the Attorney General in resolving cases in the public interest, known as

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<sup>7</sup>Hariman Satria, "Restorative Justice: A New Paradigm of Criminal Justice", *Jurnal Media Hukum*, Vol. 25, No. 1, 2018. Accessed via <https://media.neliti.com/media/publications/267453-none-97a73a66.pdf>, on March 18, 2019, at 22.38 W

<sup>8</sup>G. Widiartana, *Victimology: The Victim's Perspective in Crime Prevention*, Yogyakarta: Atma Jaya University Yogyakarta, 2013, p. 102.

<sup>9</sup>Dikdik M. Arief Mansur and Elisatris Gultom, *The Urgency of Protecting Crime Victims Between Norms and Reality*, Jakarta: Raja Grafindo Persada, 2007, p. 31.

deeponeering. The Attorney General's discretion regarding resolving cases with restorative justice is regulated in Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia, where the general explanation of the law states:

"The authority of the Prosecutor in exercising prosecutorial discretion (prosecutorial discretionary or *opportuniteit beginselen*) carried out by considering local wisdom and the values of justice that exist in society has an important meaning in order to accommodate the development of legal needs and a sense of justice in society that demands a change in the paradigm of law enforcement from merely realizing retributive justice (revenge) to Restorative Justice. For this reason, the success of the Prosecutor's task in carrying out Prosecution is not only measured by the number of cases submitted to the court, including the settlement of cases outside the court through penal mediation as an implementation of Restorative Justice that balances fair legal certainty and benefits."

and it is also stated in the explanation of Article 37 paragraph (1) that:

"As a manifestation of Restorative Justice, Prosecution is carried out by weighing legal certainty (*rechtmatigheids*) and its benefits (*doelmatigheids*)."

As a follow-up to the implementation of the laws and regulations referred to above, the implementation of the authority of Restorative Justice for the Indonesian Prosecutor's Office is specifically regulated through Attorney General Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice. This regulation emphasizes that the procedures for implementing the termination of prosecution based on Restorative Justice must be based on justice, public interest, proportionality, criminal penalties as a last resort, and the principles of speed, simplicity, and low cost. However, in implementing these principles, the use of discretion by law enforcement must not ignore general legal principles, particularly the principle of *restitutio in integrum* which emphasizes restoration to the original condition. Regarding the implementation of the said discretion, it must not override the principle of *restitutio in integrum*, which is one of the general legal principles that means restoration to the original condition. This obligation to return must be regulated normatively in law, so that it can serve as a legal basis for law enforcement.

The implementation of discretion through restorative justice mechanisms has been proven to have a positive impact on crime prevention and public education. However, further study is needed to determine the extent to which this mechanism can create a deterrent effect, particularly in Indonesia. For comparison, the experiences of other countries can serve as a reference in assessing the effectiveness of restorative justice in reducing crime rates and restoring victims' well-being.

In Indonesia, although restorative justice is still relatively new, the concept has been indirectly adopted through customary law resolutions conducted through deliberation and consensus. Restorative justice offers a new approach to resolving criminal cases, one that better fulfills victims' rights and accommodates the interests of all parties, resulting in more meaningful justice that benefits all. Restorative justice in the criminal justice system is crucial to achieving comprehensive resolution. It aims to protect individuals and respect the rights and interests of all parties, including victims, perpetrators, and the community. In line with Indonesia's goals, restorative justice supports the achievement of a just and prosperous society based on Pancasila.

As for example, the author takes a sample of the type of crime that can be resolved through the Restorative Justice approach, namely the crime of theft, where the definition from various literature explains that the crime of theft is the act of taking someone else's property without permission or legal rights, with the intention of possessing the goods unlawfully and the author takes the case on behalf of the suspect Supri Binti Atmorejo (deceased).

In other words, theft can be understood as the act of stealing or taking something that does not belong to us. The crime of theft is the act of illegally taking another person's property. This act is regulated in Article 362 of the Criminal Code (KUHP) and can be subject to a maximum penalty of five years' imprisonment or a fine. The act of theft is regulated in Article 362 of the Criminal Code (KUHP). This article explains that anyone who takes another person's property with the intention of unlawfully controlling it can be subject to theft sanctions, with a maximum prison sentence of five years or a maximum fine of nine hundred rupiah.

Restorative justice in the context of general crimes, particularly those involving state financial losses, offers several significant advantages. First, this approach allows for more effective restitution, not only through restitution, but also through dialogue and reconciliation between the perpetrator, victim, and community, as well as how the perpetrator's life can be sustained so that they do not repeat the crime. Second, restorative justice has the potential to reduce recidivism rates among perpetrators because this method encourages behavioral change and improves social relationships. Third, this approach can increase efficiency in the law enforcement process, as cases can be resolved more quickly and efficiently than conventional criminal justice procedures.

Based on an interview with the Head of the General Crimes Section of the Grobogan District Attorney's Office, the crime rate of theft in the jurisdiction of Grobogan Regency is relatively high compared to other crimes, where the Grobogan District Attorney's Office noted that there were at least several cases of minor and aggravated theft.

A criminal offense, such as theft, can be terminated if it meets the provisions of Attorney General Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. The provisions in Articles 4 to 6 emphasize that termination of prosecution must take into account the interests of the victim, social harmony, and the principles of propriety, morality, and public order, taking into account the background, level of blameworthiness, consequences, and the existence of reconciliation between the victim and the suspect. Termination is only possible if the suspect is a first-time offender, the criminal penalty is not more than five years or a fine, and the losses do not exceed Rp2,500,000.00, accompanied by restoration of the original situation and a peace agreement. Furthermore, a positive public response is also an important requirement for its implementation. However, this provision does not apply to certain crimes, such as crimes against state security, the dignity of the President and Vice President, narcotics, the environment, and crimes committed by corporations.

Thus, if the crime of theft is handled through the Restorative Justice justice approach after fulfilling the conditions above, including by returning stolen goods accompanied by peace between the perpetrator and the victim, it can be a basis for stopping the prosecution, as long as it fulfills the conditions mentioned previously. But once again, does the perpetrator of the crime of theft provide a deterrent effect both for the perpetrator and for the general public, and in the future, will the behavior of the perpetrator improve after being given forgiveness in the eyes of the law through the termination of the case with Restorative Justice or not, or with the forgiveness the problems that triggered the defendant to commit the crime are resolved and make the economy of the perpetrator of the crime better, or with the forgiveness the defendant also feels that he has been given social sanctions and most importantly, is there a chance for the perpetrator of the crime to repeat the crime, and what is the role of the state so that the defendant can overcome these problems.

## **2. Research Methods**

This research is descriptive in nature, descriptive research, namely revealing statutory regulations related to legal theories as research objects.<sup>10</sup> Descriptive research aims to accurately describe the characteristics of an individual, condition, symptom or particular group, or to determine the spread of a symptom, or to determine whether or not there is a relationship between a symptom and other symptoms in society.<sup>11</sup> In this study, the author wants to try to describe the application of Restorative Justice in resolving the crime of theft at the Grobogan District Attorney's Office, what weaknesses are faced by

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<sup>10</sup>Ibid, p. 175

<sup>11</sup>Amirydin and Zainal Asikin, *Introduction to Legal Research Methods*, Jakarta: Raja Grafindo Persada, 2004, p. 25.



the Grobogan District Attorney's Office in applying Restorative Justice in resolving the crime of theft and efforts to overcome these weaknesses.

### **3. Results and Discussion**

#### **3.1. Implementation of Restorative Justice in Resolving Criminal Acts of Theft**

Theft is a crime under the Criminal Code (KUHP). According to the Big Indonesian Dictionary (KBBI), theft is defined as the unlawful or illegal seizure of another person's property, usually by concealed means. In criminal law, theft refers to the act of taking over, either in whole or in part, another person's property or possessions, with the intent to obtain them unlawfully. The Criminal Code (KUHP) regulates robbery and related crimes.

The settlement of the case by withdrawing charges based on restorative justice at the Grobogan District Attorney's Office in the theft case committed by suspect Supri Binti Atmorejo required several stages before the charges could be dropped. The case resolution process is essentially divided into three main stages:

##### **1. Pre-Restorative Justice or Administrative Stage**

The first stage involves summoning the victim. At this stage, the Prosecutor's Office issues official summonses to the victim and related parties. This summons is issued after Stage II, which involves the transfer of the suspect and evidence from the Police Investigator to the Prosecutor's Office. Prior to this transfer, the Investigator and Prosecutor conduct intensive coordination. The prosecutor appointed by the Chief District Attorney then serves as the Public Prosecutor in the criminal case after receiving the Stage II transfer from the Police Investigator.

After the Public Prosecutor receives the transfer of the case from the Police Investigator, the Prosecutor begins to prepare a plan for the indictment which contains the formulation of the demands in the case.<sup>12</sup> The indictment is based on the results of the initial investigation, including statements from the defendant, witnesses, evidence, and expert opinions. It is at this stage that evidence is found that indicates the act was committed intentionally and describes how the act was committed.

At this stage, the prosecutor, acting as the public prosecutor, reviews and evaluates the criminal case and its proposed indictment to determine whether the case meets the provisions of the Republic of Indonesia Attorney General's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. The prosecutor has the authority to determine whether the

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<sup>12</sup> Ispandir Hutasoit, "The Role of the Public Prosecutor in the Process of Drafting the Indictment," PETITA 1, no. 2 (2019): 297–318.



case can be resolved through the Restorative Justice mechanism, in accordance with the authority granted by the regulation in handling a case.

The prosecutor as the public prosecutor holds full control as *dominus litis* in the criminal justice system, especially in determining the prosecution steps.<sup>13</sup> Prosecutors have the discretion to choose which criminal laws to prosecute and which not to prosecute. They have the authority to determine whether a case will be transferred, brought to trial, or dismissed. This authority is exercised while ensuring that the requirements for dismissal based on restorative justice are met.

The Public Prosecutor must assess whether the criminal case meets the requirements set out in Article 5 before proceeding with the trial. If the Public Prosecutor deems these requirements unfulfilled, the case will be processed through the usual criminal justice mechanisms. However, if the requirements stipulated in the Republic of Indonesia Prosecutor's Office Regulation Number 15 of 2020 are deemed met, the Public Prosecutor may submit a proposal for settlement through a peace mechanism to the Head of the District Attorney's Office.

If the Chief Prosecutor assesses that the case meets the requirements and can be pursued through peace efforts as an initial step to stop prosecution based on Restorative Justice.<sup>14</sup>, the Chief Prosecutor will issue a Peace Effort Implementation Order. This order will contain the legal basis, considerations, and purpose of its issuance, namely to implement the peace process in a criminal case filed by the Public Prosecutor, involving the parties and the Prosecutor as a facilitator.

After the Chief Prosecutor's Office approves the implementation of a peace settlement effort in a criminal case filed by the Public Prosecutor, a Peace Settlement Order is issued. With this order, the Public Prosecutor has the authority to initiate the peace settlement process in the case in question.<sup>15</sup> As part of the procedure for terminating a prosecution, the Public Prosecutor then formally summons the parties involved, including religious or community leaders, stating the reasons for the summons. The Public Prosecutor then issues a Summons for Peace Efforts to the relevant parties to attend and participate in

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<sup>13</sup> Imman Yusuf Sitinjak, "The Role of the Prosecutor's Office and the Role of Public Prosecutors in Law Enforcement," *Jurnal Ilmiah Maksitek* 3, no. 3 (2018).

<sup>14</sup> Iwan Kurniawan, "Implementation of Attorney General Regulation Number 15 of 2020 Concerning Termination of Prosecution Based on Restorative Justice (Study at the West Nusa Tenggara High Prosecutor's Office)," *Jurnal Education And Development* 10, no. 1 (2022): 610–18.

<sup>15</sup> Roos Nelly et al., "Socialization of Termination of Prosecution Based on Restorative Justice (Attorney General Regulation No. 15/2020) in Cengkeh Turi Village, Binjai," *Unhamzah Community Service Contribution Journal* 3, no. 1 (2023): 56–66.

the legal peace process before the Public Prosecutor handling the resolution of the criminal case.

## **2. Mediation Stage (Restorative Justice)**

Mediation stage<sup>16</sup>, The Public Prosecutor acts as a facilitator who only offers the parties to reach a settlement as stipulated in Article 9 paragraph (2) of the Republic of Indonesia Prosecutor's Office Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. However, the final decision remains in the hands of the parties, whether they agree to make peace or choose to continue the legal process. Achieving peace requires mutual agreement between the suspect and the victim. If one party refuses or is unwilling to make peace, the criminal case will be processed further in accordance with applicable legal provisions.

If both parties agree to a settlement, the Public Prosecutor will draft a settlement agreement. This settlement agreement may or may not contain specific conditions, depending on the agreement.<sup>17</sup> If the settlement is accompanied by conditions, the Public Prosecutor will ask the guarantor to ensure that both parties fulfill the agreed conditions, thus preventing violations and avoiding problems in the future.

## **3. Post-Mediation Stage (Restorative Justice)**

After a settlement agreement is reached between the parties involved in a criminal case, the Public Prosecutor prepares a Minutes stating that the settlement has been agreed to by all parties. This document is signed by the relevant parties and the Public Prosecutor responsible for resolving the case. In addition, the Public Prosecutor also prepares a Memorandum of Opinion regarding the Termination of Prosecution Based on Restorative Justice, which contains the considerations and reasons behind the proposed settlement effort and the termination of prosecution in accordance with the principles of Restorative Justice in the criminal case.

Termination of prosecution can only be done after obtaining approval from the Chief Prosecutor of the High Court.<sup>18</sup>, because the case must be resolved through a prosecution termination mechanism based on the principles of restorative justice. It should be noted that implementing this step still requires a report to the highest authority, namely the High Prosecutor's Office. If the Chief

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<sup>16</sup> Hasudungan Sinaga, "The Role of Mediation in the Framework of Legal Development in Indonesia," *J-CEKI: Jurnal Cendekia Ilmiah* 3, no. 4 (2024): 1726–37.

<sup>17</sup> Rahmadi Putra Paputungan, "Legal Status of Peace Deeds Determined by Judges According to Civil Procedure Law," *Lex Crimen* 6, no. 8 (2017).

<sup>18</sup> Kristanto, "Study of Attorney General Regulation Number 15 of 2020 concerning the termination of prosecution based on restorative justice."

Prosecutor disagrees with or rejects the prosecution termination based on restorative justice, the prosecution phase will continue.

If the Head of the High Prosecutor's Office agrees with the Public Prosecutor and after careful consideration, agrees to terminate the prosecution based on the principle of Restorative Justice in accordance with Prosecutor's Regulation Number 15 of 2020, then the Head of the High Prosecutor's Office will issue a Letter of Approval for Termination of Prosecution Based on Restorative Justice to the Head of the relevant District Prosecutor's Office, in this case the Head of the Grobogan District Prosecutor's Office. The letter is used as the basis for implementing the termination of prosecution in the criminal case on behalf of the suspect Supri Binti Atmorejo (deceased), with the issuance of a letter of termination of prosecution by the Head of the Grobogan District Prosecutor's Office.

After obtaining approval from the Chief Prosecutor, the Chief Prosecutor of the Grobogan District Attorney may issue a Letter of Termination of Prosecution in a theft case that has been resolved through a settlement agreement and approved by the Chief Prosecutor. This Letter of Termination of Prosecution contains considerations, the case's position, and the reasons for terminating prosecution of the criminal case.

The issuance of a letter of determination to stop prosecution, the criminal case is officially stopped and closed<sup>19</sup>. Next, a Detention Release Order is issued. In this letter, the Chief Prosecutor orders the Public Prosecutor handling the case to release the detainee or defendant and prepare a release report. This report serves as official evidence of the defendant's release from detention and is signed by the defendant and the relevant Public Prosecutor.

The final stage involves reporting the termination of prosecution to the Chief Prosecutor. This report contains the Decision to Terminate Prosecution made by the Public Prosecutor as an effort to stop the prosecution process in the criminal case. In addition, the report also includes the return of the identity of the confiscated objects or evidence to the relevant parties. There is a provision that the decision to terminate prosecution can be revoked if at a later date new reasons are discovered by the Investigator or Public Prosecutor, a pre-trial decision is issued, or a final decision from the High Court declares the termination of prosecution invalid.

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<sup>19</sup> Novi Widi Astuti, *Legal Analysis of Termination of Prosecution for Legal Interests Based on the Principle of Restorative Justice*, Brawijaya University, 2021.

### **3.2. Weaknesses in the Implementation of Restorative Justice in Resolving Criminal Acts of Theft**

The Prosecutor's Office has the duty and authority to carry out prosecutions in accordance with statutory provisions, particularly those referring to the Criminal Code. In carrying out prosecutions, the principles of justice, legal certainty, and adherence to religious norms, decency, and morality are of paramount importance. One innovation in prosecutorial practice is the implementation of the Restorative Justice approach, which emphasizes efforts to achieve win-win solutions, where the victim's losses can be repaired, while also providing an opportunity for the perpetrator of the crime to obtain forgiveness and restore their relationship with the community. This approach focuses more on recovery and reconciliation, compared to traditional punishments that only emphasize imprisonment. The legal basis for implementing the procedure for terminating prosecution based on the principles of Restorative Justice is regulated in Prosecutor's Office Regulation Number 15 of 2020.

This demonstrates a paradigm shift in law enforcement toward an approach that places greater emphasis on reconciliation and restoration, particularly in cases with relatively limited losses. The application of restorative justice by the Prosecutor's Office allows for more appropriate and effective case resolution, reduces the burden on the criminal justice system, and provides opportunities for perpetrators to make changes.<sup>20</sup> This approach is a positive step toward more humane law enforcement while supporting community recovery.

When measuring how effective the implementation of a regulation is<sup>21</sup> Soerjono Soekanto suggested that there are several factors that can be used as benchmarks, namely the law itself. The next factor is law enforcement, who are the parties who formulate and implement the law itself. The factors include the means or facilities that support the performance of law enforcement, the community where the law applies and is implemented, and the cultural factor, as creative works and feelings based on human will in social interactions.

Based on the facts presented above, it is known that there are factors that indicate weaknesses in influencing the application of Restorative Justice in resolving theft crimes, which can be described as follows:

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<sup>20</sup> Irabiah Irabiah et al., "Implementation of Restorative Justice at the Prosecution Level (Case Study at the Kotamobagu District Attorney's Office)," *Perspectives* 27, no. 2 (2022): 131–38.

<sup>21</sup> Muhammad Miftahul Huda et al., "Implementation of state responsibility for gross human rights violations in Paniai from the perspective of Soerjono Soekanto's legal effectiveness theory," *IN RIGHT: Jurnal Agama Dan Hak Azazi Manusia* 11, no. 1 (2022): 115–34.

## 1. Legislative Factors

In implementing law enforcement, the Grobogan District Attorney's Office acts based on the provisions of material law, positive law, and formal law, and still adheres to the Principle of Legality as regulated in Article 1 of the Criminal Code. Although grammatically the Concept of Termination of Criminal Case Prosecution through the Concept of Restorative Justice is not stated in the Law of the Republic of Indonesia Number 8 of 1981 concerning the Criminal Procedure Code, the termination of criminal case prosecution using the concept of Restorative Justice is carried out with reference to the Law of the Republic of Indonesia Law Number 11 of 2021 as amending the Law of the Republic of Indonesia Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia and the Regulation of the Attorney General's Office of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice.

## 2. Law Enforcement Factors

Law enforcement officials play a crucial role in the success of law enforcement in Indonesia. Although regulations are in place and regulated normatively, without optimal support and implementation from the police, prosecutors, and courts, the goal of establishing sound laws will not be achieved. Obstacles to law enforcement from the law enforcement side include: first, limited ability of law enforcement officials to conduct outreach to the public; second, low levels of public response or aspiration regarding law enforcement; and third, lack of innovation and creativity among law enforcement officials in carrying out their duties and functions.

## 3. Infrastructure Factors

The quality of law enforcement is not only determined by the competence of officers but must also be supported by the availability of adequate facilities so that the law enforcement process can run optimally. Facilities and infrastructure are crucial supporting components for law enforcement officers; without such support, the implementation of duties becomes less effective and their room for maneuver is limited. This is due to the lack of equipment, infrastructure, or technical facilities necessary to support officer performance. Based on an interview with Public Prosecutor Eko Febrianto, it was revealed that there are "limitations in facilities and infrastructure that support the implementation of law enforcement."

### **3.3. The Effectiveness of Implementing Restorative Justice in Resolving Criminal Acts of Theft Based on Benefit**

Eko Febrianto, SH, MH, Head of the General Crimes Section at the Grobogan District Attorney's Office, stated that the implementation of restorative justice in

theft cases within his jurisdiction has begun to be implemented gradually. This mechanism provides space for achieving reconciliation between perpetrators and victims, particularly in cases of minor theft involving small losses. Its effectiveness is evident in the reduced caseload in court, as some can be resolved during the investigation stage.<sup>22</sup>In practice, the Prosecutor's Office facilitates meetings between the two parties to reach an agreement that is outlined in official minutes, emphasizing the Prosecutor's Office's role as the vanguard in implementing the principles of Restorative Justice.

Eko Febrianto, SH, MH, Head of the General Crimes Section at the Grobogan District Attorney's Office, also stated that the implementation of restorative justice in his jurisdiction has demonstrated effectiveness, albeit on a limited scale. This success is evident in the reduction in the number of cases that must be referred to the courts. Furthermore, the public feels more satisfied because the settlement process is quick and simple. Restorative justice also provides a more humane alternative to the lengthy formal justice system, while fostering a sense of social responsibility for both perpetrators and victims.

Furthermore, Eko Febrianto, SH, MH, Head of the General Crimes Section of the Grobogan District Attorney's Office, believes that restorative justice is very effective in expediting case resolution, especially if the perpetrator is a novice thief with small losses. By reaching a peace agreement, the victim receives compensation quickly, while the perpetrator avoids a lengthy judicial process. According to him, this plays a crucial role in maintaining social stability because conflicts can be resolved quickly. The role of operational officers here is to ensure that the initial process runs smoothly before the case proceeds to the investigation stage.

Furthermore, Eko Febrianto, SH, MH, Head of the General Crimes Section of the Grobogan District Attorney's Office, believes that restorative justice is an important step towards a modern criminal justice system that focuses more on recovery. Restorative justice is effective when both parties act in good faith. However, he emphasized that restorative justice cannot be applied to all theft cases, especially if the losses are substantial or the perpetrator is a repeat offender. The limited norms in positive law are a challenge that must be addressed immediately.

The theory of legal effectiveness developed by Soerjono Soekanto, the success of law implementation is influenced by five main factors, namely legal substance factors, law enforcement apparatus factors, supporting facilities and infrastructure factors, community factors, and legal culture factors. In the context of the implementation of restorative justice at the Grobogan District Attorney's

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<sup>22</sup> Eko Febrianto, SH.MH., "Results of Interviews on the Application of Restorative Justice in Theft Crimes at the Grobogan District Attorney's Office," November 10, 2025.

Office, this theory can be used as an analysis to see to what extent alternative sentencing based on restorative justice is truly effective.

From the legal substance side, Prosecutor's Regulation No. 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice provides a clear legal basis for terminating criminal proceedings if an agreement is reached between the perpetrator and victim. This legal substance provides room for reducing prison overcrowding and prioritizes the principle of legal expediency.

From a law enforcement perspective, the implementation of Restorative Justice is heavily influenced by the understanding and attitudes of police, prosecutors, and judges in prioritizing peaceful resolution. Data from the Grobogan District Attorney's Office shows that 13 cases were successfully resolved through this mechanism throughout October 2025, demonstrating that authorities are quite responsive to the policy. However, there is still variation in implementation because not all officials share a uniform perspective on the urgency of Restorative Justice.

Facilities and infrastructure also determine effectiveness. Detention centers, as correctional institutions, only house detainees, so overcrowding often creates problems. While restorative justice significantly reduces the burden on detention centers, more adequate mediation facilities, such as legal consultation rooms and professional mediators, are needed to ensure fair and transparent resolution.

From a societal perspective, the effectiveness of the law can be measured by the level of acceptance of peace mechanisms by victims and the community. In Grobogan Regency, most victims were willing to reconcile due to social proximity, relatively small losses, and the guarantee of restitution. This demonstrates that Indonesian family values remain a strong foundation for supporting restorative justice.

Finally, cultural factors play a crucial role. The community's legal culture, which is still strongly based on deliberation and peace, aligns with the principles of restorative justice. Therefore, the implementation of restorative justice in Grobogan Regency is not only legally compliant but also aligns with local culture, which prioritizes social harmony.

When compared with the Netherlands, the application of restorative justice to the crime of theft in Indonesia is different.<sup>23</sup> Restorative justice arrangements for theft crimes in Indonesia and the Netherlands differ. Indonesia is still in the early stages of implementing a comprehensive and systematic restorative justice approach. Although regulations regarding restorative justice have begun to be

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<sup>23</sup> Muhammad Asy'arya Suni, *Restorative Justice Against the Crime of Theft in the Comparative Perspective of Indonesian and Dutch Law*, tt



accommodated through legislation such as Police Regulations, Prosecutor's Regulations, Supreme Court Policies, and the Juvenile Criminal Justice System Law, their implementation remains limited. This contrasts with the Netherlands, which has integrated restorative justice principles into its criminal justice system, both through formal legal instruments and community-based programs supported by state institutions. The Netherlands can serve as a reference in developing a restorative justice model in Indonesia, particularly in terms of institutionalizing the penal mediation process, active participation of victims and perpetrators, and strengthening the role of the community.

In addition, there are advantages and disadvantages of restorative justice in the crime of theft in Indonesia and the Netherlands.<sup>24</sup> Indonesia has advantages in the form of flexibility and opportunities for peaceful out-of-court settlement of cases, supported by regulations such as the Decree of the Director General of Badilum, Regulation of the Chief of Police No. 8 of 2021, and Regulation of the Chief of Police No. 15 of 2020. However, its implementation still faces obstacles in terms of regulatory integration, consistent application in the field, and potential inequalities in the protection of victims' rights. In contrast, the Netherlands has a more structured restorative justice system, with strong legal support and professional implementation, integrated into the criminal justice system, although it still has limitations in reaching all types of crimes and relies on the voluntary participation of the parties. This comparison shows that Indonesia still needs more comprehensive legal reform to make restorative justice an effective and equitable alternative for resolving criminal cases, as has been systematically implemented in the Netherlands.

Based on the analysis of the theory of legal effectiveness, it can be concluded that the implementation of Restorative Justice in the Grobogan District Attorney's Office is relatively effective, although it still requires strengthening, particularly in terms of social action against suspects and legal outreach. Thus, Restorative Justice is not only an alternative to punishment but also realizes the goals of law: justice, benefit, certainty, and sustainability.

#### **4. Conclusion**

Restorative justice is implemented in resolving theft crimes through a penal mediation mechanism involving the perpetrator, victim, and law enforcement officials. This process emphasizes restitution, reaching amicable agreements, and avoiding formal judicial proceedings if established legal requirements are met. This implementation aligns with the Attorney General's Office guidelines and aims to create a more humane and recovery-oriented resolution. The application

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<sup>24</sup> Lahiri Manik Mahayoga, *Comparison of Restorative Justice Approaches in Resolving Criminal Acts by Children According to Indonesian Law and Dutch Law*, Atma Jaya University Yogyakarta, 2023.

of restorative justice in the crime of theft faces significant weaknesses, particularly related to the ambiguity of Article 5 paragraph (5) of Prosecutor's Regulation Number 15 of 2020, which does not provide clear guidelines or parameters for the Public Prosecutor in determining cases that can be stopped through a restorative justice approach. In addition, practical obstacles such as difficulty building trust between perpetrators and victims and low public understanding of the law also affect the effectiveness of the implementation of this regulation. The effectiveness of the utility-based restorative justice approach is evident in the reduced burden of petty theft cases in court, accelerated recovery of victims' losses, and strengthened post-case social relations. In addition to providing legal certainty and utility, this approach enhances a sense of substantive justice that is not always achieved through litigation. However, this effectiveness still requires strengthening the support system for consistency and sustainability.

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