



Awanda Handani  
[handanimario99@gmail.com](mailto:handanimario99@gmail.com)  
[m](#)  
Law Faculty  
Swadaya Gunung Jati  
University

Dian Noviyani  
[diannoviyani37@gmail.com](mailto:diannoviyani37@gmail.com)  
m  
Law Faculty  
Swadaya Gunung Jati  
University



## RESTORATIVE JUSTICE AND THE SETTLEMENT OF THEFT CRIMES BY ART IN CIREBON: A CASE STUDY AND CRIMINAL LAW PERSPECTIVE

Awanda Handani<sup>1</sup>, Dian Noviyani<sup>2</sup>

<sup>12</sup>Law Faculty, Swadaya Gunung Jati University, Cirebon, Indonesia.

**Corresponding Author :** [handanimario99@gmail.com](mailto:handanimario99@gmail.com)

### Abstract

**Background.** Article 367 of the Criminal Code (KUHP) regulates the crime of theft in the family. This article also governs theft committed by the person who helps to commit the theft. Theft in the family is a criminal offense of complaint, meaning that it can only be prosecuted if there is a complaint from the aggrieved party. The complaints referred to in this article are complaints against people who commit theft. According to Awdah,

**Aims.** Theft is the act of stealing other people's property. The meaning of stealth is to take it without the knowledge and consent of its owner.

**Methods.** In this study, we use a qualitative approach to the crime of theft that leads to restorative justice (RJ), in-depth interviews. The researcher can interview various parties involved in the restorative justice process, such as perpetrators, victims, mediators, and law enforcement officials, to get a clearer picture of the effectiveness of RJ in resolving theft cases.

**Conclusion.** Restorative justice is one of the settlements of a case before it is continued to court by both parties. This restorative settlement cannot be applied to all criminal cases, but it can be used to minor crimes under its provisions.

**Implementation.** The result of this restorative settlement aims to reconcile both parties.

**Keywords:** Effort, Criminal Justice, Restorative Justice, Perpetrator Family, Victim's Family.

## **INTRODUCTION**

Indonesia is a developing country; for example, in economic life, economic development has a very influential impact on human life. One example is the reduction of jobs in Cirebon, which increases the crime rate, including theft. Done by part of the family

Restorative settlement provides a different solution from criminalization, this settlement is carried out by mediation between the perpetrator and the victim or family, the role of the family in this settlement is the primary focus, seeing a very vital impact on the family restorative settlement as a moral support and active assistance in the mediation process, in modern life restorative settlement is one of the critical things in resolving criminal cases.

This study's primary focus is families' involvement in resolving theft crimes. With family understanding and helping social recovery, this study investigates how the family plays an essential role in helping to create a fair legal settlement. This makes sense due to the relationship between the perpetrator's family and the victim and the success of restorative settlement. In addition, this solution makes a lot of sense in social life.

Restorative resolution is now increasingly used to reduce social sanctions and focus on family attention. This research is a new way to overcome family problems by paying attention to the challenges and implementing restorative solutions involving families.

### **Problem Formulation**

Based on the background of the problems described above, this study can be formulated to identify the following problems:

1. How is the mode of theft by Art and its solution
2. How effective is law enforcement in obtaining information from both parties?
3. How did the problem of restorative justice begin?

## **METHODS**

This research raises a normative juridical approach by focusing on the rules and norms in positive law. The approach in this problem uses the law, conceptual, and case approaches. Literature research is a standard method to be applied to the study of law, which can be understood as a norm that regulates human behavior in society.

This norm includes the aspiration of good justice, which is manifested in the form of positive law. The judge plays a crucial role in this settlement because in court, the judge not only considers legal certainty but also pays attention to the interests of the parties involved in

the case. Law as a normative concept can be understood as a set of norms governing human behavior.<sup>1</sup>

This research is known as normative juridical research because it focuses on analyzing written regulations. Therefore, library involvement is important because data collection is secondary.

The qualitative approach method is also used to analyze the findings from the sources studied. Integrating data and information from various sources forms the basis for solid arguments and conclusions based on the facts obtained in the field. This approach is vital in establishing a foundation for presenting information that can be held accountable.

## RESULTS AND DISCUSSION

According to Muhammad Adam Zafrullah, Restorative Settlement is a concept of justice that focuses on the recovery process for victims, perpetrators, and the community involved. In another view, Restorative Resolution is defined as a collaborative process in which stakeholders in a crime work together to resolve conflicts and manage their impacts over time.<sup>2</sup>

### What are the factors that cause theft?

Due to economic factors, Sister Dian and Rusmanto were always contacted by Sutarno (the victim) every Saturday to help take care of household chores such as cleaning, washing clothes, and others. And every time I sweep inside the victim's house and in the victim's room I open the victim's closet, and see a blue bag, then Dian opens the bag and sees the RP100,000 bill neatly arranged in the bag, then Dian on April 13, 2024 took a bendel containing RP.10,000,000 fractions of one hundred thousand and Dian kept the money under her clothes, then Dian came out of the room area to meet Rusmanto the husband, Rusmanto was in charge of monitoring the situation in the middle room of the victim's house, then Dian gave the money to Rusmanto, after Rusmanto received the money immediately went to his house and kept the money in the closet, while the gold ring jewelry that Dian took from the drawer of the victim's room and Dian did it in the same way as Dian took the money. In committing the theft, Dian

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<sup>1</sup> Ginting, Y. P., Ozora, A., Santoso, F. T. M., Sadikin, J. M., & Marceliani, R. (2024). Efforts to Resolve Crimes through Restorative Justice Efforts by involving the Perpetrator's Family/Victim's Family. *Journal of Applied Science*, 3(04), 410-428.

<sup>2</sup> Muhammad Rijal Fadli, "Understanding the design of qualitative research methods", *Humanities, Eye Scientific Studies*

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and Rusmanto did not immediately do it at once, but they carried out the theft gradually when Dian and Rusmanto were asked to take care of the victim's house, the loss suffered by the victim was around RP.146,700,000, according to a report at the kedawung police station After the victim's belongings were taken, Dian and Rusmanto used the goods for personal purposes, As for the gold ring jewelry, Dian and Rusmanto have sold it to mobile carpenters along Jalan Karang Getas, Cirebon City at a price of around RP.3000,000. <sup>3</sup>

### **How effective is law enforcement in obtaining information from both parties?**

SUTARNO, on Sunday, April 14, 2024, at 17.00 WIB, the complainant lost three gold rings weighing 9.54 grams. Furthermore, on June 17, 2024, in the same place, the complainant also lost cash of RP.150,000,000, and then the complainant suspected an assistant.

Dian then, on June 18, 2024, the complainant came to the house of her maid, and Dian's brother and her husband, named Rusmanto, admitted that he had taken the victim's belongings in stages and then returned them to the victim, worth RP. 13.300.000 . For this incident, the victim reported the incident to the Kedawung Police.

The police of the Kedawung Police Criminal Investigation Sector received the report. After receiving the report, the Kedwaung Police held a case of alleged theft regarding restorative justice. The case was held on Thursday, August 15, 2024, at approximately 10.00 WIB until it was completed in the title room of the Cirebon City Police Criminal Investigation Unit.

On Saturday, July 20, 2024, an investigation was carried out into the crime of theft of three gold rings weighing 9.54 Gr and cash amounting to RP.150,000,000, in the end the victim and the perpetrator have been carried out restorative justice at the request of both parties by making a letter of mutual agreement, which contains: that the first party hereby guarantees the building as mentioned earlier as evidence of the results of peace/deliberation to resolve the problem that occurred With the second party and the second party agreeing that if the first party provides the building guarantee, the second party will revoke the report and release the first party from all lawsuits and other demands, signed by Sutarno and Rusmanto. So to provide legal certainty, we will stop the investigation.<sup>4</sup>

### **How did the problem of restorative justice begin?**

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<sup>3</sup> ( source: Case file Minutes of suspect Dian Binti Wantam)

<sup>4</sup> (source: Kevin I Minor and J.T Police Regulation No. 8 of 2021)

According to Kevin I. Minor and J.T., Restorative justice is a method designed to resolve conflicts by redressing the circumstances and the harm caused. This means the focus is not just on punishment but on the recovery process and determining the negative impact of crime. The National Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice regulates the application of restorative justice in the handling of criminal acts within the police force.

This regulation aims to provide a more effective and humane solution for resolving conflicts arising from minor crimes.

This regulation regulates several vital matters, including:

- **Scope of Restorative Justice Application:** Restorative justice can be applied to minor criminal cases regulated in Articles 364, 373, 379, 384, 407 and 483 of the Criminal Code (KUHP).

- **Conditions for the Implementation of Restorative Justice:**

The application of restorative justice must meet several conditions, such as:

- Minor Criminal Cases
- The perpetrator and the victim are willing to reconcile
- There is a peace deal that is fair and beneficial to both sides
- Peace agreements are not detrimental to the public interest

- **Restorative Justice Implementation Process:**

The process of implementing restorative justice in the police environment includes several stages, namely:

- Research and Investigation
- Mediation
- Peace
- Termination of Prosecution

- **Benefits of Restorative Justice:**

The application of restorative justice is expected to provide several benefits, such as:

- Improving the relationship between the perpetrator and the victim
- Recovering losses suffered by victims
- Preventing similar crimes in the future
- Increase the sense of justice for all parties

## CONCLUSION

Restorative justice is one of the settlements of a case before it is continued to court by both parties. This restorative settlement cannot be applied to all criminal cases, but it can be applied to minor crimes under its provisions. The result of this restorative settlement aims to reconcile both parties.

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Regulation of the National Police of the Republic of Indonesia (Perpol) Number 8 of 2021. Source of the file of the theft case of Dian and Rusmanto: Letter of Mutual Agreement. Source: Case file Minutes of the suspect Dian Binti Wantam The source of the case file is the Kedawung Police investigator IPTU Dedi Sutikono. SH