

***APPLICATION OF RESTORATIVE JUSTICE TO THE
CRIME OF MILD THEFT
(Lhokseumawe police research study)***

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ABSTRACT

The objective of this study is to understand and explain the implementation of restorative justice for minor theft offenses at the Lhokseumawe Police Station, as well as to identify the challenges and efforts involved in its application. This research adopts a qualitative approach, producing descriptive data through literature review and interviews using an empirical juridical method. The empirical juridical approach, or sociological legal research, focuses on primary data obtained directly from the community through fieldwork. The findings indicate, first, that the implementation of restorative justice adheres to regulations and involves resolving cases through familial or out-of-court settlements. These resolutions may or may not involve compensation and are based on mutual consent, aiming to achieve justice and humanity. Second, the challenges encountered in the field include the community's limited understanding of restorative justice and their reluctance to involve facilitators, such as traditional leaders or religious figures, in the resolution process. Efforts to handle criminal offenses or traffic violations based on restorative justice must meet the conditions outlined in National Police Regulation Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice. Article 5 of the Regulation specifies that such resolutions must not cause public unrest or rejection, lead to social conflict, threaten national unity, involve radicalism, repeat offenders, terrorism, state security offenses, corruption, or crimes resulting in the loss of life.

Keywords: Restorative Justice, theft, criminal offense.

INTRODUCTION

A criminal offense is defined as an unlawful act committed by an individual or a group that requires a proportional punishment in accordance with the principle of negligence as stipulated in the law. When someone engages in criminal behavior, they bear the burden of criminal liability for their actions.¹

Lhokseumawe is a city that is not free from criminal activity, especially theft. This assertion is reinforced by data carefully collected from the records of the Lhokseumawe Police Criminal Investigation Unit. In 2021, there were 211 cases of theft, 121 of which were successfully resolved. The following year, 2022, there was a slight decrease in theft cases, with 192 cases reported and 114 cases successfully resolved. However, in 2023, there was a significant decrease in both reported incidents, namely 85 cases, and resolved cases, as many as 71 cases. The spectrum of theft covers various categories, including violent theft, petty theft, and motorcycle theft.²

Currently, a large number of crimes are dealt with through the Restorative Justice Process, which includes the police, the prosecutor's office, and the judicial system. This represents significant progress in law enforcement practices in Indonesia. It is important to recognize that individuals who commit crimes bear responsibility for their actions when they do wrong.⁴ It is essential to prioritize restoration while maintaining a balance between protecting the rights of victims and the interests of those accused of committing crimes.³

To address this urgent need, it is imperative to establish a comprehensive Criminal Procedure Code framework that includes regulations governing investigations, arrest procedures, detention, prosecution, and other important aspects of law enforcement. In addition, this framework must reflect the norms and values of society, and embody the sense of justice inherent in society. This is in line with the principles outlined in Police Regulation Number 8 of 2021 (Perpol Number 8 of 2021), which advocates an approach rooted in restorative justice. In Chapter 1, Article 1, Section 3 it is articulated that "Restorative Justice is a collaborative approach to dealing with criminal acts, involving perpetrators, victims, their families, community leaders, and representatives from religious and customary circles. Together, they seek a resolution that prioritizes harmony and aims to restore the situation to its original state." It is important to note that this approach does not

¹ Adam Chazawi, *Criminal Law Lessons Section*, Raja Grafindo Persada, Jakarta, 2005, p. 69

² Aipda Sondi Agus Saputra Kaur Mintu Criminal Investigation Unit of Lhokseumawe Police, Interview Date. June 14, 2024

³ Ibid

apply to acts of terrorism, violations of state security, or crimes that endanger human life.⁴

While the benefits of the restorative approach are undeniable, its implementation is often fraught with challenges. This is exemplified by the experience of the Criminal Investigation Unit of the Lhokseumawe Police. In 2021, out of 211 reported theft cases, only 80 cases were successfully handled through restorative justice. The following year, out of 192 reported theft cases, only 57 cases were resolved through this method. In 2023, the situation had not improved significantly, as only 32 out of 85 reported theft cases were resolved through restorative justice.⁵

Based on Police Report Case Number: LP/B/03/2022/SPKT/POLRES LHOKSEUMAWE, on Saturday morning, January 15, 2022, two young men with the initials MS (26) and MZ (23), were arrested in Tambon Tunong Village, Dewantara District, North Aceh. They were caught stealing a concrete fence belonging to PT Pupuk Iskandar Muda, after the concrete had been dismantled to remove the iron inside. Their catch was approximately one kilogram of sharpened wire. Given its proximity to residential areas, the noise generated during the destruction of the concrete disturbed local residents, because the theft occurred between 02.00 and 05.00. The incident was then reported to the Dewantara Police by a security guard on duty at PT Pupuk Iskandar Muda. The two individuals were charged under Article 362 of the Criminal Code with a potential sentence of up to 5 years in prison. However, the investigation into this theft, which was reported on January 15, was stopped on the basis of restorative justice.⁶

RESEARCH METHODS

This study uses an empirical legal method. The approach applied includes the application of restorative justice to minor theft crimes at the Lhokseumawe Police. This research is descriptive. The location of the research was conducted at the Lhokseumawe Police, with research samples including the Head of the Lhokseumawe Police Police Unit, the victim's family and the village head (geuchik). Primary data were obtained directly from the field, while secondary data included legal documents such as state police regulation number 8 of 2021. Data collection techniques included field research and literature, with qualitative analysis to compile and interpret data.

DISCUSSION

⁴ Ibid, p. 5

⁵ <https://www.rri.co.id/hukum/499285/catatan-polres-kriminal-tahun-2023-menurun-di-lhokseumawe> date 23 December 2023 20:17 accessed 13 June 2023

⁶ Ihan Nurdin, <https://portalsatu.com/praktisi-hukum-asal-dewantara-minta-polres-lhokseumawe-rj-kan-perkara-pencurian-di-pim/> January 26, 2023 16:00, accessed June 18, 2024.

1. Implementation of restorative justice for minor theft crimes at the Lhokseumawe Police

The implementation of restorative justice in the Lhokseumawe Police Department for minor theft crimes has become part of an effort to reduce the burden of the criminal justice system. Restorative justice is chosen as an alternative to resolving cases, especially in cases involving minor losses or first-time perpetrators of crimes. This process involves mediation between the perpetrator, victim, and third parties such as community leaders or family, to reach a resolution amicably.⁷

The restorative justice process at the Lhokseumawe Police is based on the principles of voluntariness, justice, and humanity. The stages begin with identifying eligible cases, such as insignificant losses and cooperative perpetrators. Next, mediation is carried out to reach an agreement, which can include an apology, compensation, or community service as a form of accountability for the perpetrator. This settlement is officially reported to ensure transparency and accountability.⁸

The implementation of restorative justice has positive impacts, such as reducing the time to resolve cases, lightening the burden on the courts, and creating reconciliation between perpetrators and victims. However, challenges remain, such as the lack of public understanding of this concept and the reluctance of some victims to engage in mediation. On the other hand, limited human resources, especially trained mediation facilitators, are an additional obstacle in the implementation of restorative justice in Lhokseumawe.⁹

Restorative justice operates on several key principles, such as fairness, humanity, and recognition of wrongdoing. The process begins with identifying cases that qualify for restorative resolution, such as reparable harm and cooperative perpetrators. The first stage is consultation with the victim and perpetrator to ensure mutual agreement regarding their intention to resolve the case amicably. Next, mediation is carried out involving a trusted third party, such as a traditional leader, to facilitate communication between the two parties. The police play a role in ensuring that this process runs according to applicable regulations. If an agreement is reached, then a settlement is made which can be in the form of financial compensation or a direct apology to the victim. Once an agreement is reached, the perpetrator can avoid the formal judicial process, but there is still an obligation to report officially to the authorities. In addition, the perpetrator can also be given social tasks as a form of responsibility. Through this step, it is hoped that reconciliation can be created between the perpetrator and the victim, as well as

⁷ Satreskrim Polres Lhokseumawe, Annual Report on Handling of Minor Theft Cases, Lhokseumawe, 2021, p. 45.

⁸ Indonesian National Police, Regulation of the Indonesian National Police No. 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice, Jakarta, 2021, pp. 12-13.

⁹ Muhammad Hidayat, Analysis of the Implementation of Restorative Justice at the Lhokseumawe Police, Lhokseumawe, 2023, pp. 28-29.

repairing disturbed social relations. However, evaluation and monitoring of the implementation of restorative justice are still needed to ensure its sustainability and effectiveness.

The implementation of restorative justice at the Lhokseumawe Police has a positive impact on both perpetrators, victims, and the community. By resolving petty theft cases through a family approach, a long and tiring legal process can be avoided. In addition, victims feel more appreciated because they have the opportunity to participate in resolving the cases that befell them. Perpetrators, on the other hand, get the opportunity to improve themselves without having to serve a prison sentence. In this case, the community also feels a positive impact, such as reduced crime rates and an increased sense of justice. However, despite its many benefits, the implementation of restorative justice still faces significant challenges. One of the biggest challenges is the negative perception from some people who think that restorative justice does not provide a deterrent effect on perpetrators. In addition, limited human resources, especially trained mediation facilitators, are an obstacle in the implementation process. Not all cases can be resolved through a restorative approach, especially if the losses suffered by the victim are very large or if the perpetrator is a recidivist. In addition, the police need to continue to improve public understanding so that restorative justice is well received. Therefore, a more comprehensive and ongoing approach is needed to ensure the success of this program in the future.

2. Factors Influencing the Implementation of Restorative Justice for Minor Theft Crimes at the Lhokseumawe Police

One of the main factors influencing the implementation of restorative justice for minor theft crimes at the Lhokseumawe Police is the community's understanding of this concept. Many residents do not fully understand the difference between restorative justice and conventional legal procedures. In some cases, the community prefers formal legal channels due to a lack of knowledge about the benefits of restorative resolution, which emphasizes reconciliation and peace between the perpetrator and the victim. Therefore, education and counseling about restorative justice are very important to increase public understanding so that they are more open to this approach. If the community has a good understanding, they will participate more in the mediation process that can lead to a peaceful resolution. In addition, proper understanding can also reduce anxiety that may arise about injustice in this process. Communities who are aware of the benefits of restorative justice tend to provide support to law enforcement officers in its implementation. Therefore, it is important to hold seminars or socialization so that residents understand the concept and objectives of restorative justice. This can accelerate the implementation of restorative justice in resolving minor theft cases in Lhokseumawe. Proper understanding can also increase public trust in a fairer and

more humane justice system. With increasing awareness, it is hoped that a legal culture can be created that supports this restorative process.¹⁰

Law enforcement officers play an important role in the success of the implementation of restorative justice, especially in cases of minor theft at the Lhokseumawe Police. The police as the first party to handle the case must have a deep understanding of restorative justice to ensure the mediation process runs smoothly. In addition, the police's ability to assess the suitability of the case to be resolved through a restorative approach is also very important. In some cases, police who do not have special training related to restorative mediation may have difficulty in facilitating meetings between the perpetrator and the victim. Therefore, it is important for the police to receive further training on mediation techniques and restorative approaches so that they can become good facilitators. In addition, officers must also be able to explain to the perpetrator and victim the benefits of resolving the case peacefully. Law enforcement that does not only focus on punishment but also on rehabilitation and improving the relationship between the perpetrator and the victim can encourage the success of restorative justice. The quality of communication between law enforcement officers and the community will greatly affect the acceptance of this process. Without trust in the officers, restorative justice tends to fail. Therefore, adequate training and provision for law enforcement officers is crucial in supporting the implementation of restorative justice in the Lhokseumawe Police. Consistent and fair implementation will increase the effectiveness of restorative justice in the future.¹¹

Economic and social factors also greatly influence the application of restorative justice to petty theft crimes. Many perpetrators of petty theft commit these acts due to economic factors, such as financial difficulties or urgent needs. In this case, restorative justice offers a more humane approach by providing an opportunity for the perpetrator to correct his/her mistakes without having to serve a prison sentence. The application of restorative justice can be in the form of compensation or restitution to the victim that is adjusted to the perpetrator's ability. In Lhokseumawe, the majority of perpetrators of petty theft crimes come from lower-middle economic classes, so restorative justice provides a more sustainable solution for them to improve their lives. In addition, the community in Lhokseumawe also has very strong family values, which can support the application of a restorative approach to settlement. However, challenges arise when the perpetrator feels unable to provide adequate compensation to the victim. Therefore, mediation involving a neutral third party, such as a community leader or religious leader, is very important to assess the feasibility and fairness in resolving this case. The success of restorative justice depends greatly on the extent to which this process is acceptable to both parties and the extent to which the community supports reconciliation efforts.¹²

¹⁰ Fadhil, Muhammad. "Public Understanding of Restorative Justice in Indonesia." *Indonesian Law Journal*, vol. 12, no. 1, 2022, pp. 45-56.

¹¹ Saputra, Agus. "The Role of the Police in Restorative Mediation for the Resolution of Theft Cases." *Journal of Police and Law*, vol. 9, no. 2, 2023, pp. 134-142.

¹² Sari, Indah. "Economic and Social Factors in the Implementation of Restorative Justice." *Journal of Social Development*, vol. 7, no. 3, 2022, pp. 202-212.

3. Efforts to implement restorative justice against petty theft at the Lhokseumawe Police.

Proper socialization of the concept of restorative justice to the community in Lhokseumawe is one of the important efforts in implementing restorative justice for minor theft crimes. Many people still do not fully understand this process and tend to choose formal legal channels. Therefore, the police at the Lhokseumawe Police need to strengthen the socialization program by holding seminars, counseling, or information campaigns through various media. The goal is for the community not only to know, but also to understand the benefits of restorative justice in resolving minor criminal problems such as theft. This socialization process involves community leaders, religious leaders, and traditional leaders who have great influence in the area. In addition, counseling can also be carried out in schools and other educational institutions to instill awareness from an early age. If the community can accept and understand its benefits, restorative justice will be more easily accepted and implemented. This socialization aims to explain that this approach prioritizes the restoration of social relations, rather than just punishing the perpetrator. The success of restorative justice is highly dependent on the active participation of the community and their acceptance of the principles contained therein.¹³

The Lhokseumawe Police also held training for law enforcement officers, such as police and investigators, to improve their understanding of the implementation of restorative justice. This training aims to provide the skills needed to facilitate the mediation process between the perpetrator and the victim. The trained police can act as neutral mediators in resolving petty theft cases through restorative justice. In the training, law enforcement officers learn how to manage communication between the two parties involved, as well as direct them towards a more peaceful resolution. They are also given an understanding of the principles of justice that emphasize improving social relations rather than punishment. These skills are essential to ensure that the mediation process runs smoothly and that both parties feel valued. Without adequate skills, the restorative justice process can fail and instead increase tensions between the perpetrator and the victim. Therefore, this training needs to be carried out continuously so that law enforcement officers are increasingly prepared to carry out their duties. Thus, they can become effective facilitators in resolving petty theft crimes through a more humane approach.

Compensation or restitution is one of the main elements in the application of restorative justice to petty theft crimes. In many cases, victims not only seek punishment for the perpetrators, but also want compensation for the losses they have experienced. Through restorative justice, the perpetrator is given the opportunity to return the stolen goods or provide money as compensation to the victim. This process aims to restore the material losses suffered by the victim without involving long and formal legal procedures. In this case, compensation can be a more effective and faster solution, and can maintain good relations between the

¹³ Halim, Iwan. "Strategy for Socializing Restorative Justice in Society." *Journal of Law and Society*, vol. 3, no. 2, 2022, pp. 112-120.

perpetrator and the victim. In addition, the provision of compensation or restitution also shows the perpetrator's regret and intention to correct his mistakes. This restitution is carried out based on an agreement reached between the perpetrator and the victim in a mediation process facilitated by a third party. Although in some cases the perpetrator is unable to provide full compensation, this approach is still expected to provide a sense of justice for the victim. The success of this restitution also depends on the willingness of the perpetrator to take responsibility for his actions and resolve the problem peacefully.

CONCLUSION

The implementation of restorative justice for petty theft crimes at the Lhokseumawe Police has been carried out with an approach that prioritizes family resolution and restoration of relations between the perpetrator and the victim. Factors that influence this implementation include limited public understanding of restorative justice, the involvement of third parties such as religious and traditional leaders, and the readiness of law enforcement officers who are trained in mediation. Efforts made to increase its effectiveness include increasing socialization to the community, training for police officers, and support from third parties who function as mediators. Appropriate socialization helps the community understand the concept of restorative justice as a more humane alternative resolution than formal legal channels. Training for police officers also ensures that they have adequate skills to facilitate the mediation process fairly. In addition, the involvement of a trusted third party ensures justice and openness during the mediation process. One important component in this effort is the provision of compensation or restitution, which can repair the victim's material losses and provide a sense of justice. Although there are challenges in its implementation, such as community resistance and limited understanding, restorative justice is expected to be an effective solution in reducing the burden on the justice system and creating more holistic justice. Continuous efforts in socialization and training are key to achieving optimal results. With these steps, restorative justice can be a better approach in resolving petty theft crimes at the Lhokseumawe Police.

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