

IMPLEMENTATION OF RESTORATIVE JUSTICE IN THE CRIME OF THEFT IN THE JURISDICTION OF GARUT DISTRICT

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ABSTRACT

The concept of restorative justice aims to achieve a balance between perpetrators and victims of crime. In addition, we recognize that the handling of criminal cases is more flexible than strict, does not require formalities and can be resolved quickly, saving time, money and effort. The concept of restorative justice is applied in the settlement of criminal cases and can provide substantive justice for perpetrators and victims of crime. The approach method used in completing this article is normative juridical which is a method by examining legal provisions and presenting all information and data obtained, both primary data and secondary data and providing a clear and systematic picture. Legal certainty is constructed. In substance the principle of restorative justice in the criminal justice system is that the settlement of criminal cases by the conference method (meetings to negotiate) or mediation is based on the concept of forgiving but not forgetting so that a crime still has to get a legal verdict as a crime. This legal decision at the same time becomes legitimacy in the execution of the results of the mediation of the parties, which in addition to providing process certainty also provides decision certainty. That the implementation of the court which aims to restore a just situation in the criminal act of theft in the legal space of Garut Regency is carried out through their involvement, who acts like a criminal. Crime and those who suffer as loss (victim), healing or recovery not suffering, moral learning, community participation and community care, dialogue on respect, forgiveness, responsibility, apology and forgiveness.

INTRODUCTION

Based on Article 1(1) of the Criminal Code, "No act shall be punished except to the extent of the penal provisions of the law in force before the act was committed." Defined by: right. By law, crimes covered by criminal law are punishable. This principle of legality is one of the basic principles of Indonesian law. The phrase "Nullum Delictum Nulla Poena Sine Praevia Lege Poenali" means unprecedented, no offense, no crime, no punishment. The Criminal Code regulates two types of crimes: felonies and misdemeanors. According to Soesiro, crime has two meanings, namely the sociological understanding of crime and the legal understanding of crime. Crime is an act that not only harms the victim but also causes great harm to society by destroying the balance, peace and order of society .

Not all criminal law problems need to be resolved through prescriptive procedures, handing over to law enforcement. The resolution of criminal problems and cases by the justice system is often too formal and rigid, and does not create a real sense of justice between offenders and victims

of crime. Criminal justice policy should also be geared towards adopting a balanced pattern that not only protects the victim but also the interests of the offender, and that both sides engage in dialogue and reconciliation in good faith and good faith, and reform should be initiated. We must be responsible and fully aware of the perpetrators to ensure the rights that the victims deserve .

The development of Indonesian law enforcement systems and methods shows a tendency to follow the development of social justice, especially the development of the principle of restorative justice, which applies justice in human life as a balanced form, so that the behavior of criminals deviates. Crimes are considered as unbalanced behavior. The concept of case mediation aims to restore this balance by imposing obligations on the offender by consciously accepting the offense, apologizing and restoring the victim's damage and loss, or at least reminding the offender of the initial state that satisfies the victim's justice. This is how peacebuilding is constructed and ultimately implemented, benefiting both offenders and victims.

The concept of restorative justice aims to achieve a balance between perpetrators and victims of crime. In addition, we realize that the handling of criminal cases is more flexible than strict, does not require formalities and can be resolved quickly, saving time, money and energy. The concept of restorative justice is applied in the settlement of criminal cases and can bring substantive justice to perpetrators and victims of crime. The application of the concept of "restorative justice" approach, namely the statement above, follows the list of suspects who will resolve cases with a restorative justice approach in the jurisdiction of the Garut District Attorney's Office.

Problem Identification

- How is the implementation of restorative justice in the crime of theft in Garut Regency?

Research Objectives

- To find out the implementation of restorative justice in the crime of theft in Garut Regency.

Usefulness of Research

- Theoretical Uses
The results of this research are expected to contribute ideas in developing criminal law science in the future, especially regarding the implementation of restorative justice.

Practical Uses

- It is expected to be used as information for the community or legal practitioners and related institutions regarding the implementation of restorative justice in the case of theft crimes in the jurisdiction of Garut Regency.

RESEARCH METHODS

Approach Method

The approach method used in the preparation of this article is normative jurisprudence is a method by examining legal provisions and describing all information and data obtained, both primary and secondary data and providing a clear and systematic description.

Research specifications

In conducting this research, the author uses an analytical descriptive research method, which is a method that functions to describe or give an overview of the object under study through the data or samples that have been collected as is without analyzing and making conclusions that apply to the public.

Data Source

Literature Research, as the main source of data, namely procedures carried out by activities such as reading, analyzing and quoting from literature books. In this research, the author collects library data by inventorying books, then conducts a study of these books to be further understood and outlined in the preparation of this research.

Results and Discussion

In its implementation, it involves those who act as perpetrators of criminal acts and parties who are collectively identified as suffering losses, and at the same time have needs and obligations, with the intention of restoring them as much as possible and treating them as well as possible. From the results of an interview on August 15, 2022 to Fadhil Razief, as the Prosecutor, the Garut District Attorney's Office has managed to resolve 1 (one) criminal case with a Justive Restoratic settlement:

Name	: Comara Saeful Als. Combet Bin (alm) Jumsa
Place/date of birth	: Garut, August 13, 1980
Jobs	: Laborer
Address	: Kp. Kubang Rt. 03/03 Sakawayana Village Malangbong District Garut Regency.

The defendant was convicted of theft under Article 362 of the Criminal Code. The prosecution, through the public prosecutor's office, undertakes recovery according to the principles of sovereignty (it is in the interest of the parties that the case be prosecuted, investigated in court, and tried) and the principle of opportunity (the lawyer is in the public interest). . The General may suspend the prosecution of a criminal case. The interview results show that the main reason for the suspension of prosecution is in accordance with the findings of the investigation, which show that the investigation is related to the history and history of the defendants who have committed criminal offenses in the past. short:

- The respondent was not financially capable.
- The man had no premeditated intentions.
- The respondent was forced to steal.

Article 2 of Prosecutor's Decree No. 15/2020 on Discontinuation of Restorative Justice Prosecution is based on the discontinuation of restorative justice prosecution.

- Justice
- public interest
- Proportionality
- Crime as a last resort. And
- It's fast, easy and cheap.

Article 4 End Prosecution Under Restorative Justice.

- The interests of victims and other laws are protected
- Avoid Retaliation
- Community Response and Harmony
- Common sense, decency, public order and decency Conditions for legal stay of criminal proceedings and suspension of prosecution under

Article 5 to 1 restorative justice.

- the suspect is a first-time offender.
- Criminal offenses are only punishable by a fine or imprisonment for up to five years.
- A criminal offense is committed to the extent that the value of the evidence or the value of the loss suffered by the criminal offense does not exceed Rp1. 2,500,000 (2.5 million rupiah)

Article 7 Reconciliation

- Prosecutor offers peace initiative to victim and suspect 2.
- Peace efforts are made without pressure, coercion or intimidation. 3.
- Arbitration takes place at the prosecution stage when the responsibility of the suspect and evidence have been handed over (second stage).

Article 9 Peace Process

- Voluntary and consensual advice without pressure, coercion or intimidation.

- In the peace process, the prosecutor's office acts as an intermediary.
- The prosecutor has no personal or professional interest, direct or indirect, in any matter, victim or suspect.
- The peace process will be conducted at the Public Prosecution Service, unless it is not possible for safety and health reasons, and may be conducted at a government agency or other approved place upon the order of the Public Prosecution Service or the Chief Public Prosecutor. The position becomes a public prosecutor.
- The peace process and fulfillment of obligations will take place 14 days after responsibility and evidence are handed over to the defendant.

Article 12 Steps in the Restorative Justice Case Closure Process

- Based on the prosecutor's report that peace negotiations have been reached, the Director General of Public Prosecutions or the Director General of Public Prosecutions submits an application on behalf of the claim through the Chief Prosecutor. Notify the Attorney General as soon as possible within one day of the settlement agreement.
- The application must be submitted with the minutes of the peace negotiations, the peace agreement and the prosecutor's report.
- Submission of the case no later than two days after receipt of the Attorney General's electronic request.
- This title is held by the Public Prosecutor together with the Director General of Public Prosecutions, or with the Public Prosecutor and the Chief Prosecutor, in the presence of the Public Prosecutor.
- The case title is accompanied by a brief description of the chronology of events, peace efforts, the peace process, and the peace agreement brokered by the prosecutor's office.
- After the AGO gives its approval, the AGO will order the parties to implement the peace agreement.
- Based on the report, the AGO issued a decision to discontinue prosecution.

In the settlement of the criminal case above, according to the author, it benefits from the purpose of law, namely according to Gustav Rudbuch, law. Proponents of the supplementary school believe that the sole purpose of law is to provide the greatest possible benefit or happiness to as many people as possible. The value of benefit in establishing a principle that aims to restore a state of justice is more directed towards an external perspective, i.e. reducing the costs associated with financing the state police process and responding to the problem of state detention centers (Rutan), changing. decision in 2010 2010 2010 2010 2011 until 2010. the process is simple, fast and affordable, responding to the problem of unfair decisions (neglect to protect justice), connecting friendships between victims and criminals can bring more benefits than processes that lead to grievances, revenge, etc.

Legal certainty constructed in the substance of the principle of restorative justice in the criminal justice system is that the settlement of criminal cases by conference (meeting to negotiate) or mediation is based on the concept of forgiving but not forgetting so that the crime must still get a legal verdict as a crime. This legal decision also legitimizes the execution of the mediation results of the parties, which in addition to providing certainty of process also provides certainty of decision.

CONCLUSIONS

Based on the results of the discussion described above, the author can conclude that the implementation of justice aimed at restoring a just situation in the crime of theft in the legal space of Garut Regency is carried out through the involvement of those, who act like criminals and those who suffer as losses (victims), healing or recovery instead of suffering, moral learning, community participation and community concern, respectful dialogue, forgiveness, responsibility, apology and compensation. The concept of restorative justice is one of the alternative legal protections in Indonesia for those who are in dispute and should not go through the courts to reach a settlement. Indonesia.

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