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LEGAL ANALYSIS OF THE IMPLEMENTATION OF RESTORATIVE JUSTICE IN THE SETTLEMENT OF THE CRIMINAL ACT OF MILD THEFT BASED ON LAW NUMBER 1 OF 2023 CONCERNING THE CRIMINAL CODE

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Abstract

The enactment of Law Number 1 of 2023 concerning the Criminal Code represents a significant milestone in national criminal law, shifting the orientation of reform from solely repressive punishment to emphasizing a balance between legal certainty, justice, and legal benefits. One form of this reform is the regulation of petty theft crimes under Article 478 and the enforcement of restorative justice compliance as an approach to resolving criminal cases that prioritizes victim recovery, perpetrator accountability, and social recovery. This regulation is reinforced through Indonesian National Police Regulation 8 of 2021, Attorney General Regulation of the Republic of Indonesia Number 15 of 2020, and Supreme Court Regulation Number 1 of 2024, which serve as guidelines for the implementation of restorative justice at every stage of the criminal justice system. This study aims to analyze the regulation of restorative justice in resolving petty theft crimes under Law Number 1 of 2023 and analyze its application in the Indonesian criminal justice system. This study uses a normative legal research method with a regulatory legal approach, a conceptual approach, and a case approach as analytical material for the application of legal norms. The legal materials used consisted of primary, secondary, and tertiary legal materials, which were analyzed qualitatively using deductive reasoning methods. The results of the study indicate that the application of restorative justice in resolving petty theft crimes has gained a more comprehensive legal basis through Law Number 1 of 2023 and its various implementing regulations. These regulations reflect a synchronized policy between the Police, the Prosecutor's Office, and the Supreme Court in realizing a criminal justice system oriented toward restoration without diminishing the responsibility of the perpetrator. Thus, restorative justice is an important instrument in national criminal law reform, helping resolve petty theft cases more fairly, effectively, proportionally, and timely.

Keywords: Restorative Justice; Petty Theft; Article 478 of the Criminal Code; Law Number 1 of 2023; Criminal Justice System.

INTRODUCTION

Indonesia is a state based on law, as affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The consequence of this principle of the rule of law is that all state power, including criminal law enforcement, must be based on laws that guarantee legal certainty, justice, and expediency. Criminal law serves not only as an instrument for imposing sanctions on perpetrators of criminal acts, but also as a means of protecting victims' rights, maintaining public order, and achieving a balance between individual and public interests. In line with societal developments and the dynamics of social life, the Indonesian criminal law system is required to provide case resolution that is not solely oriented toward punishment (retributive justice), but also considers the restitution of victims' losses, the responsibility of perpetrators, and the restoration of harmony within society through a restorative justice approach. Efforts to reform national criminal law are realized through the enactment of Law Number 1 of 2023 concerning the Criminal Code, which replaces the colonial-era Criminal Code. This reform not only changes the criminal justice system but also introduces a new paradigm regarding the objectives of punishment, emphasizing the balance between legal certainty, justice, and legal benefit. Article 51 of Law Number 1 of 2023

emphasizes that punishment aims to prevent criminal acts, socialize perpetrators, resolve conflicts arising from criminal acts, restore balance, and create a sense of security and peace in society. Furthermore, Article 54 stipulates that judges must consider various aspects when imposing punishment, including the level of culpability of the perpetrator, the perpetrator's attitude after committing the crime, the victim's forgiveness, and the prevailing legal values within society. These provisions demonstrate that the reform of national criminal law has incorporated restorative justice values as part of Indonesia's modern criminal justice system.

The development of modern criminal law demonstrates a paradigm shift from a criminal justice system solely focused on retributive justice to a case resolution system that places a greater emphasis on restoration (restorative justice). The restorative justice approach places victims, perpetrators, their families, and the community as part of the criminal case resolution process through dialogue and deliberation to achieve peace, redress losses, and restore social relationships disrupted by the crime. Therefore, the primary goal of restorative justice is not simply to impose penalties on the perpetrator but also to restore the balance disrupted by the crime. This approach aligns with the direction of national criminal law reform, which prioritizes substantive justice, benefit, and protection of the interests of victims and the community.

As part of the reform of the criminal justice system, the application of restorative justice at the investigation stage is legally based on Indonesian National Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. This regulation provides guidelines for investigators in resolving certain criminal cases through restorative justice mechanisms while still adhering to predetermined general and specific requirements. This regulation demonstrates that the Police no longer merely perform a repressive function in law enforcement, but also prioritizes case resolution that benefits victims, perpetrators, and the community, provided it does not conflict with statutory provisions. This regulation serves as one form of implementation of criminal law policy that prioritizes substantive justice in resolving criminal cases.

At the prosecution stage, the application of restorative justice is regulated by Attorney General Regulation of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. This regulation authorizes the Public Prosecutor to terminate prosecution in certain cases if certain requirements have been met, including reconciliation between the victim and suspect, restitution of the victim's losses, the suspect being a first-time criminal, and other formal and material requirements. This policy demonstrates that the prosecutorial function is not solely directed at bringing each case to trial, but also considers fairer, expeditious, simpler, and restorative-oriented resolutions. The existence of Attorney General Regulation Number 15 of 2020 strengthens the implementation of restorative justice as part of criminal law enforcement policy in Indonesia.

The development of restorative justice has gained further legal certainty with the issuance of Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. This regulation provides guidance for judges in applying a restorative justice approach during the trial phase. The Supreme Court emphasized that restorative justice is an approach that prioritizes victim recovery, restores relationships between the accused, the victim, and the community, and encourages accountability for the accused, rather than simply retaliation. Thus, the existence of Police Regulation Number 8 of 2021, Attorney General Regulation Number 15 of 2020, and Supreme Court Regulation Number 1 of 2024 demonstrates the synchronization of policies among law enforcement officials in realizing a more humane and restorative criminal justice system.

One form of criminal law reform that has received attention in Law Number 1 of 2023 is the regulation regarding the crime of petty theft as regulated in Article 478. This provision stipulates that if the crime as referred to in Article 476 and Article 477 paragraph (1) letters f and g is not committed in a house or enclosed yard where the house is located and the value of the stolen goods is not more than IDR 500,000.00, the perpetrator is punished for petty theft with a maximum fine of category II. This regulation shows the grouping of the crime of theft based on the level of seriousness of the act and the value of the losses incurred, so that the resolution of cases is no longer always directed at punishment in the form of imprisonment, but can consider a more proportional form of settlement in accordance with the objectives of national criminal law reform.

The provisions regarding petty theft in Law Number 1 of 2023 essentially refine the provisions of Article 364 of the old Criminal Code (KUHP). While the old KUHP prioritized the classification of minor crimes with specific penalties, the National KUHP places these provisions within the framework of a reformed penal system that emphasizes the principles of proportionality, victim protection, and the objectives of sentencing, as stipulated in Articles 51 and 54. This change demonstrates that lawmakers are not only updating the definition of the offense but also shifting the paradigm of criminal case resolution to better reflect the values of justice, expediency, and balance between the interests of the victim, the perpetrator, and the community.

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In line with these reforms, the application of restorative justice is highly relevant in resolving petty theft crimes, as these crimes generally result in relatively small losses and make it more likely to achieve reconciliation between the perpetrator and the victim. This approach is also supported by Indonesian National Police Regulation Number 8 of 2021, Attorney General Regulation Number 15 of 2020, and Supreme Court Regulation Number 1 of 2024, which provide space for resolving criminal cases by prioritizing recovery, perpetrator responsibility, and the interests of victims without eliminating criminal liability. In judicial practice, the application of these provisions has begun to be seen in several cases of minor theft decided based on the provisions of the National Criminal Code, thus demonstrating that the concept of restorative justice is no longer merely normative but has begun to be implemented in the

Indonesian criminal justice system as part of national criminal law reform.

The application of restorative justice to petty theft is highly urgent because these crimes generally cause relatively small losses, do not have a widespread impact on public order, and are more likely to be resolved through deliberation and reconciliation between the perpetrator and the victim. This approach not only provides the perpetrator with the opportunity to take responsibility for their actions but also provides the victim with the opportunity to obtain immediate reparation without having to go through a lengthy judicial process. Therefore, resolving cases through restorative justice is expected to achieve the objectives of criminal punishment as stipulated in Article 51 of Law Number 1 of 2023, namely resolving conflicts, restoring balance, and creating a sense of security and peace in society.

Developments in judicial practice indicate that the provisions regarding petty theft in Article 478 of Law Number 1 of 2023 are beginning to be implemented by the courts. Case information published through the Case Tracking Information System (SIPP) of the Pulau Punjung District Court reveals that petty theft cases charged under Article 478 of the New Criminal Code with losses below the statutory threshold. Furthermore, the Supreme Court has also published its application of the restorative justice approach and the judge's pardon (rechterlijk pardon) in a minor theft case at the Sungailiat District Court. These developments demonstrate that national criminal law reform is no longer limited to norm formation but has begun to be implemented in law enforcement practice as part of reforming Indonesia's criminal justice system. However, in this study, these two cases are used only as examples of norm application, not as objects of research analysis.

Although regulations regarding restorative justice have a fairly comprehensive legal basis through Law Number 1 of 2023, Regulation of the Indonesian National Police Number 8 of 2021, Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020, and Regulation of the Supreme Court Number 1 of 2024, further study is needed to harmonize these regulations in resolving petty theft crimes. Previous studies generally discuss restorative justice from a conceptual perspective or from its implementation within a specific law enforcement agency. Meanwhile, research examining integrated restorative justice regulations in the context of petty theft crimes under Law Number 1 of 2023 is still relatively limited. Therefore, this study is novel because it focuses on the synchronization of legal regulations regarding restorative justice with petty theft crimes within the Indonesian criminal legal system.

Based on this description, it is clear that the application of restorative justice in resolving petty theft crimes is a form of criminal law reform aimed at realizing a more humane, equitable, and recovery-oriented criminal justice system. The enactment of Law Number 1 of 2023 and its various implementing regulations demonstrates the state's commitment to establishing a more proportional criminal case resolution mechanism without neglecting legal certainty. Therefore, research on the Juridical Analysis of the Implementation of Restorative Justice in the Settlement of Minor Theft Crimes Based on Law Number 1 of 2023 concerning the Criminal Code is crucial for examining the applicable legal regulations and their application in the Indonesian criminal justice system. It is hoped that this will contribute to the development of national criminal law, both theoretically and practically.

LITERATURE REVIEW

1. Restorative Justice Theory (Restorative Justice)

Restorative justice theory views criminal acts not solely as violations against the state, but also as acts that cause harm to the victim, the perpetrator, and social relationships within society. Therefore, the resolution of criminal cases is not only aimed at providing reparations or compensation to the perpetrator, but also at efforts to repair the losses incurred as a result of the crime, encourage the perpetrator's accountability, and restore the relationship between the victim, the perpetrator, and the community.

Howard Zehr explains that restorative justice views criminal acts as events that cause harm and responsibility, so the resolution process is directed at restoring these losses. This approach places greater emphasis on the victim,

while also providing the perpetrator with the opportunity to understand the consequences of their actions and take responsibility for the harm caused. Thus, restorative justice differs from the retributive approach, which places greater emphasis on punishment as a form of compensation.

From a restorative justice perspective, victims are not only positioned as parties providing information about the crime but also as stakeholders who must be considered in the case resolution process. The perpetrator is also positioned not only as an object of punishment, but also as a party responsible for the consequences of their actions. Meanwhile, society has an interest in restoring peace and social relations disrupted by the crime.

This principle is strongly relevant to the resolution of petty theft crimes. The characteristics of petty theft, as stipulated in Article 478 of Law Number 1 of 2023 concerning the crime of theft, involve relatively small amounts of property, so that case resolution can be directed toward restoring the victim's losses and ensuring the perpetrator's proportional accountability.Therefore, the theory of restorative justice in this study is used as the primary theory to analyze whether the resolution of petty theft crimes under Law Number 1 of 2023 reflects the principles of victim restoration, perpetrator accountability, social restoration, peace, and balancing the interests of the victim, perpetrator, and society.

2. The Theory of the Purpose of Punishment

The theory of the purpose of punishment is used to explain the goals to be achieved through the imposition or application of criminal law. In the development of modern criminal law, punishment is no longer understood solely as a means of retribution against perpetrators of criminal acts, but also serves the purposes of prevention, development, conflict resolution, community protection, and restoration of social balance.

Barda Nawawi Arief views criminal law policy as part of crime prevention policy, which must consider the objectives of criminal law and the balance between individual and societal interests. Therefore, the application of criminal law must be carried out rationally and proportionally, taking into account the characteristics of the crime, the perpetrator, the victim, and the resulting impact.

The theory of the purpose of punishment is closely related to the reform of criminal law through Law Number 1 of 2023. Article 51 of this law stipulates that the purposes of punishment include preventing criminal acts, socializing convicts, resolving conflicts arising from criminal acts, restoring balance, and creating a sense of security and peace in society. This formulation demonstrates that the purpose of punishment in the National Criminal Code is not solely oriented towards retribution.

Furthermore, Article 54 of Law Number 1 of 2023 provides guidelines for judges to consider, among other things, the level of culpability of the perpetrator, the motive and purpose of the crime, the perpetrator's attitude after committing the crime, the victim's forgiveness, the impact of the punishment on the perpetrator's future, and the legal values and sense of justice prevailing in society.

These provisions demonstrate that the criminal justice system in the National Criminal Code allows for a more individual, humane, and proportional approach. In the context of petty theft, this approach is crucial because punishment must consider the seriousness of the act and the extent of the harm caused. Therefore, resolving the case through restorative justice can be seen as one form of implementing the objectives of punishment, provided it meets the requirements stipulated by law. Therefore, the theory of the objectives of punishment in this study is used to analyze the relationship between the objectives of punishment in the National Criminal Code and the application of restorative justice to petty theft, specifically in achieving conflict resolution, restoring balance, protecting victims, holding perpetrators accountable, and creating a sense of security and peace in society.

3. Integrated Criminal Justice System Theory

The integrated criminal justice system theory is used to view the criminal law enforcement process as a system comprised of various institutions, each with its own functions and authority, but interconnected in achieving law enforcement objectives. Within the criminal justice system, the Police, Prosecutors, Courts, and other related institutions cannot be viewed as standalone institutions, as each stage is interconnected with the others.

Muladi, in his study of the criminal justice system, positions the criminal justice system as a network of interconnected justice systems involved in the crime prevention process. Therefore, the effectiveness of criminal law enforcement is determined not only by a single institution, but also by the integration and coordination between institutions in carrying out their respective functions.

This theory has strong relevance in research on the application of restorative justice because the restorative justice mechanism in the Indonesian criminal legal system does not occur in a single stage. At the investigation stage, there is Regulation of the Republic of Indonesia National Police Number 8 of 2021, at the prosecution stage, there is Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020, and at the court examination

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stage, there is Regulation of the Supreme Court Number 1 of 2024. This journal has also identified these three regulations as instruments governing the application of restorative justice at different stages.

This integration can be seen in the division of roles of each institution. The police have the authority to assess the resolution of a case through restorative justice mechanisms during the investigation stage. The Prosecutor's Office has a mechanism to terminate prosecution based on restorative justice if the requirements are met. Meanwhile, at the trial stage, judges are guided by PERMA Number 1 of 2024 to apply a restorative justice approach, taking into account the restoration of the situation, the interests of the victim, the responsibility of the defendant, consensualism, transparency, and accountability.

Therefore, the theory of the integrated criminal justice system in this study is used to analyze the synchronization and integration of the application of restorative justice at the stages of investigation, prosecution, and examination in court, especially in resolving petty theft crimes based on Law Number 1 of 2023.

METHOD

This research is normative legal research that aims to examine and analyze legal norms regarding the application of restorative justice in resolving petty theft crimes based on Law Number 1 of 2023 concerning the Criminal Code. Normative legal research views law as a system of norms consisting of legal principles, legal rules, statutory regulations, doctrines, and relevant decisions to address the legal issues under study.

The approaches used in this research include the statute approach, the conceptual approach, and the case approach. The legal approach was conducted by examining Law Number 1 of 2023 concerning the Criminal Code, National Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning Handling Criminal Offenses Based on Restorative Justice, Attorney General Regulation of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, and Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. The conceptual approach was used to examine the theory and doctrine of restorative justice, while the case study approach served only as supporting material to illustrate the application of norms in practice, not as the primary object of the research.

The legal materials used consist of primary legal materials, namely the 1945 Constitution of the Republic of Indonesia, Law Number 1 of 2023 concerning the Criminal Code, the Criminal Procedure Code, Police Regulation Number 8 of 2021, Attorney General Regulation Number 15 of 2020, and Supreme Court Regulation Number 1 of 2024. Secondary legal materials include books, scientific journals, research results, and the opinions of legal experts. Tertiary legal materials include legal dictionaries, legal encyclopedias, the Great Dictionary of the Indonesian Language, and other scientific sources related to the research.

The legal materials were collected through library research, which involved inventorying, identifying, and studying various primary, secondary, and tertiary legal materials related to the research object. All of these legal materials were then analyzed qualitatively by inventorying legal norms, interpreting statutory provisions, and examining the synchronization of restorative justice regulations within the Indonesian criminal justice system. The results of the subsequent analysis are compiled using a deductive thinking method, namely drawing conclusions from general legal provisions towards solving specific legal problems so that answers to the problem formulation are obtained systematically and comprehensively.

RESULTS AND DISCUSSION

1. Restorative Justice Regulations in the Settlement of Minor Theft Crimes Based on Law Number 1 of 2023 concerning the Criminal Code

The enactment of Law Number 1 of 2023 concerning the Criminal Code marked the beginning of a national criminal law reform that not only replaced the colonial-era Criminal Code but also introduced a new paradigm in the Indonesian penal system. This reform aimed to create a criminal law that was more responsive to societal developments by prioritizing a balance between legal certainty, justice, and expediency. In this context, the resolution of criminal cases was no longer solely oriented toward punishing the perpetrator, but also provided space for solutions that could redress the victim's losses, encourage perpetrator accountability, and restore the social balance disturbed by the crime.

One concrete example of this reform is evident in the regulation of petty theft, as stipulated in Article 478 of Law Number 1 of 2023. This provision provides a separate classification for theft offenses that meet certain requirements and are therefore treated as petty theft. This regulation demonstrates the application of the principle of proportionality in criminal law, where legal treatment is adjusted to the seriousness of the act and its consequences.

With this classification, lawmakers provide an opportunity for cases that meet the criteria for petty theft to consider more proportional resolutions without neglecting the protection of victims or the public interest.

The provisions regarding petty theft as referred to in Article 478 are inseparable from the objectives of criminal punishment as stipulated in Article 51 of Law Number 1 of 2023. This provision emphasizes that criminal punishment aims to prevent criminal acts, socialize convicts, resolve conflicts arising from criminal acts, restore balance, and foster a sense of security and peace in society. This formulation demonstrates that lawmakers have shifted the orientation of criminal punishment from a solely retributive approach to a more restorative one. Therefore, for petty theft, resolution through restorative justice mechanisms is one form of implementation of the objectives of criminal punishment, explicitly accommodated in the National Criminal Code.

In addition to the objectives of sentencing, Law Number 1 of 2023 also stipulates sentencing guidelines in Article 54, which must be considered by judges before sentencing. This provision requires judges to consider various aspects, including the level of culpability of the perpetrator, the motive and purpose of committing the crime, the perpetrator's attitude after the crime, the victim's forgiveness, the impact of the crime on the perpetrator's future, and the legal values and sense of justice prevailing in society. These guidelines demonstrate that the sentencing process no longer relies solely on proving the crime but also considers humanitarian and restorative aspects. Thus, Article 54 provides a strong normative basis for judges to consider a restorative justice approach in petty theft cases, provided they comply with applicable legal provisions.

The provisions regarding the objectives and guidelines for sentencing in Law Number 1 of 2023 are further elaborated through various implementing regulations governing the application of restorative justice at every stage of the criminal justice system. This demonstrates that the drafters of the legislation desire continuity between the criminal law policies contained in the National Criminal Code and the case resolution mechanisms implemented by law enforcement officials. Therefore, for petty theft, as stipulated in Article 478, case resolution is no longer viewed solely as the process of imposing a sentence, but also directed at resolving conflicts, recovering the victim's losses, and holding the perpetrator accountable as a unified goal of law enforcement.

At the investigation stage, the application of restorative justice is legally based on Indonesian National Police Regulation Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice. This regulation authorizes investigators to resolve certain criminal cases through restorative justice mechanisms while adhering to established formal and material requirements. This policy demonstrates that the investigative function is not solely directed at proving the elements of a crime but also provides space for peaceful resolution of cases while ensuring legal certainty, a sense of justice, and legal benefits for victims, perpetrators, and the community. This regulation is particularly relevant for petty theft crimes because the characteristics of these cases make them more likely to achieve restitution than the use of imprisonment as the primary option.

At the prosecution stage, restorative justice policies are regulated by Indonesian Attorney General Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice. This regulation authorizes the Public Prosecutor to terminate prosecution if certain requirements have been met, such as reconciliation between the victim and perpetrator, restitution of losses resulting from the crime, and other requirements in accordance with applicable regulations. This regulation demonstrates a shift in the orientation of prosecution, from an approach that solely brings every case to trial to a resolution that prioritizes expediency and substantive justice. In cases of petty theft, this mechanism provides victims with the opportunity to obtain direct redress while simultaneously encouraging perpetrators to take responsibility for the consequences of their actions without neglecting the public interest.

The application of restorative justice at the trial stage in court has gained increasing legal certainty through Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. This regulation emphasizes that judges adjudicating criminal cases based on restorative justice must adhere to the principles of restoration, strengthening the rights and interests of victims, the responsibility of the accused, punishment as a last resort (ultimum remedium), consensualism, and transparency and accountability. Furthermore, the objectives of restorative justice are to restore the victim, restore the relationship between the accused, the victim, and the community, encourage the accused's accountability, and prevent deprivation of liberty if the legal requirements are met. This regulation demonstrates that the application of restorative justice in petty theft cases has a comprehensive normative foundation, from the investigation and prosecution stages to the trial, reflecting a reformed Indonesian criminal justice system that is more oriented toward restoration than retribution.

Based on the provisions contained in Law Number 1 of 2023, it is understandable that the application of restorative justice in resolving petty theft crimes is not a stand-alone policy but rather part of the reform of national criminal law. The provisions regarding the crime of petty theft in Article 478, the objectives of punishment in Article

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51, and the guidelines for punishment in Article 54 demonstrate that lawmakers have provided a new direction in resolving criminal cases that prioritizes recovery, conflict resolution, and a balance between the interests of victims, perpetrators, and the community. Thus, the application of restorative justice to the crime of petty theft has a clear normative basis in the Indonesian criminal law system.

The synchronization of these regulations is increasingly evident through the relationship between Law Number 1 of 2023 and Police Regulation Number 8 of 2021, Attorney General Regulation Number 15 of 2020, and Supreme Court Regulation Number 1 of 2024. These three regulations provide complementary guidelines at every stage of the criminal justice process, from investigation and prosecution to trial. With these regulations, the resolution of petty theft crimes no longer relies solely on the imposition of imprisonment, but also provides space for solutions oriented toward restitution of the victim's losses, accountability of the perpetrator, and the restoration of social harmony.

The existence of Supreme Court Regulation Number 1 of 2024 further strengthens this harmonization by providing uniform guidelines for judges in implementing a restorative justice approach. This PERMA emphasizes that the implementation of restorative justice aims to restore the victim, restore relationships between the defendant, the victim, and the community, encourage accountability of the defendant, and prevent deprivation of liberty if the legal requirements are met. This regulation also emphasizes that the implementation of restorative justice is not intended to eliminate criminal responsibility, but rather is part of a modern criminal justice system that prioritizes substantive justice over mere retribution.

Thus, the regulation of restorative justice in resolving petty theft crimes under Law Number 1 of 2023 has established a legal system that integrates the National Criminal Code with regulations at the Police, Prosecutor's Office, and Supreme Court levels. This synchronization demonstrates the state's commitment to building a more humane, proportional, and restorative criminal justice system without compromising legal certainty. Therefore, this regulation provides an adequate legal basis for law enforcement officials to implement restorative justice for petty theft crimes, in accordance with the objectives of national criminal law reform.

2. The Implementation of Restorative Justice in the Settlement of Minor Theft Crimes Based on Law Number 1 of 2023 concerning the Criminal Code

The application of restorative justice in resolving petty theft crimes represents an implementation of a paradigm shift in Indonesian criminal law, which no longer places punishment as the sole means of resolving criminal cases. In Law Number 1 of 2023, this reform is reflected in the objectives of punishment, which prioritize conflict resolution, restoring balance, and holding perpetrators accountable without eliminating legal certainty. Therefore, for petty theft crimes, as stipulated in Article 478, resolving cases through a restorative justice approach is relevant as long as it complies with applicable legal provisions, considering that these crimes generally cause relatively minor losses and still allow for reconciliation between the victim and perpetrator.

Normatively, the mechanism for implementing restorative justice begins with the parties' willingness to resolve the case through deliberation aimed at restoring the situation to the way it was before the crime occurred. In this mechanism, the victim is given the opportunity to express the losses they have suffered, while the perpetrator is given the opportunity to acknowledge their actions, take responsibility, and make reparations as agreed. This approach demonstrates that case resolution is not solely oriented toward punishment but also considers the interests of the victim, perpetrator, and the community in a balanced manner. However, the application of restorative justice is not intended to eliminate criminal responsibility, but rather to be a resolution mechanism that remains within the framework of the national criminal justice system.

In cases of petty theft, the success of restorative justice implementation is greatly influenced by meeting the requirements stipulated in the law. Reconciliation between the victim and the perpetrator must be voluntary and without pressure, the victim's losses must be restitution according to the agreement, and the resolution of the case must not conflict with the public interest or the community's sense of justice. Furthermore, law enforcement officials remain obligated to ensure that the reconciliation process is carried out transparently, accountably, and respects the rights of the parties so that the goal of restitution is truly achieved. Therefore, the success of restorative justice implementation depends not only on the existence of reconciliation but also on the fulfillment of the legal principles underlying its implementation.

The application of restorative justice to petty theft crimes must also be understood as part of a reformed criminal justice system that prioritizes proportional case resolution. This approach does not eliminate the function of criminal law as a means of maintaining public order, but rather strengthens its function as an instrument for achieving more substantive justice. Therefore, law enforcement officials at every stage of the criminal process are required to

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carefully apply the principles of restorative justice, while still considering normative requirements, the interests of the victim, the interests of society, and the objectives of sentencing as stipulated in the National Criminal Code. This approach is expected to provide legal certainty while simultaneously realizing benefits and justice for all parties involved in criminal cases.

During the investigation stage, the restorative justice mechanism is implemented based on Indonesian National Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. This regulation empowers investigators to assess whether a criminal case is suitable for resolution through a restorative justice approach, while still adhering to the specified requirements. In cases of minor theft, investigators not only assess whether the elements of the crime have been met but also consider the existence of reconciliation between the victim and the perpetrator, the restitution of losses, the absence of public opposition, and the absence of disruption to the public interest. Therefore, resolving cases through restorative justice during the investigation stage is a form of implementing the principle of legal benefits without neglecting legal certainty and a sense of justice.

Once a case enters the prosecution stage, the application of restorative justice is based on Attorney General Regulation of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. Through this regulation, the Public Prosecutor is authorized to terminate a prosecution if certain requirements have been met, such as reconciliation between the victim and the perpetrator, restitution of the losses incurred, and other requirements stipulated in the regulation. This policy demonstrates that the function of the prosecution is not merely to bring every case to trial, but also to prioritize resolutions that benefit the victim, the perpetrator, and the community, thereby achieving more effective law enforcement objectives.

At the trial stage, the application of restorative justice is further clarified through Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. This regulation stipulates that judges must consider the principles of restoration, protection of victim rights, accountability of the defendant, punishment as a last resort (ultimum remedium), consensualism, transparency, and accountability in adjudicating criminal cases. With these guidelines, judges have a clear normative basis for applying a restorative justice approach to qualifying cases, including petty theft, so that the decisions rendered not only meet legal certainty but also reflect substantive justice and legal expediency.

The mechanism for implementing restorative justice at the investigation, prosecution, and trial stages demonstrates that the Indonesian criminal justice system has developed an integrated mechanism. The police play a role in assessing the feasibility of resolving a case from the outset, the Prosecutor's Office has the authority to discontinue prosecution based on restorative justice if the requirements are met, and the Supreme Court, through Supreme Court Regulation No. 1 of 2024, provides guidelines for judges to ensure the uniform application of restorative justice and avoid disparities. This integration demonstrates that the application of restorative justice is no longer a sectoral policy but has become an integral part of the national criminal justice system, supporting the implementation of the sentencing objectives stipulated in Law No. 1 of 2023.

The application of restorative justice in resolving petty theft crimes is essentially an implementation of the objectives of sentencing as outlined in Article 51 of Law Number 1 of 2023. This provision emphasizes that sentencing is not only intended to inflict suffering on the perpetrator, but also to prevent further crime, socialize the perpetrator, resolve conflicts, restore balance, and create a sense of security and peace in society. Therefore, if a petty theft case meets the requirements for resolution through restorative justice mechanisms, the resolution does not conflict with the objectives of sentencing but rather embodies these objectives in law enforcement practice.

In addition to the objectives of sentencing, the application of restorative justice must also consider the sentencing guidelines as stipulated in Article 54 of Law Number 1 of 2023. These guidelines require law enforcement officials and judges to consider the level of culpability of the perpetrator, the motive for committing the crime, the perpetrator's attitude after committing the crime, the victim's forgiveness, the impact of the punishment on the perpetrator's future, and the legal values and sense of justice prevalent in society. Thus, the application of restorative justice to petty theft crimes cannot be done automatically, but must be based on an objective assessment of all the circumstances of the case to maintain a balance between legal certainty, justice, and expediency.

In judicial practice, the application of these provisions has begun to be seen in several cases that utilize the provisions of the National Criminal Code. One such case is the case at the Pulau Punjung District Court, which applied the provisions regarding petty theft in the New Criminal Code and utilized a restorative justice approach as part of the case resolution process. In this study, this case is not used as the object of analysis, but rather as an example of how norms regarding petty theft and restorative justice have begun to be applied in practice. The existence of this practice demonstrates that the provisions in Law Number 1 of 2023 have been effectively implemented by law enforcement officials, thus supporting the effectiveness of national criminal law reform.

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Similarly, judicial practice at the Sungailiat District Court, which applies a restorative justice approach and rechterlijk pardon (judicial forgiveness), demonstrates that reforms in Indonesian criminal law are increasingly moving toward resolving cases that prioritize restoration without eliminating criminal accountability. The presence of Supreme Court Regulation Number 1 of 2024 provides uniform guidelines for judges to apply this approach, thus avoiding disparities in judicial practice. Therefore, the application of restorative justice in resolving petty theft crimes under Law Number 1 of 2023 not only has a strong normative basis but is also beginning to gain recognition in judicial practice as a form of reforming the criminal justice system that is more humane, proportional, and oriented toward victim recovery and social balance.

CONCLUSION

The regulation of restorative justice in the resolution of petty theft crimes has gained a comprehensive legal basis in the Indonesian criminal law system. Law Number 1 of 2023, through Article 478, regulates petty theft crimes. Articles 51 and 54 provide a new direction regarding the objectives and guidelines for sentencing, which are no longer solely oriented towards retribution but also emphasize conflict resolution, restoring balance, protecting victims, fostering perpetrators, and creating order in society. These regulations are then aligned with Police Regulation Number 8 of 2021, Attorney General Regulation Number 15 of 2020, and Supreme Court Regulation Number 1 of 2024, thus forming an integrated system for the application of restorative justice from the investigation and prosecution stages to the trial. Thus, the application of restorative justice in the resolution of petty theft crimes has a strong normative basis as part of the reform of national criminal law that is oriented towards restorative justice and no longer solely focused on punishment.

The application of restorative justice to petty theft crimes is carried out through different mechanisms at each stage of the criminal justice system while still paying attention to the requirements stipulated in the laws and regulations. At the investigation stage, case resolution is carried out based on Police Regulation Number 8 of 2021; at the prosecution stage, it refers to Attorney General Regulation Number 15 of 2020; while at the trial stage, it is guided by Supreme Court Regulation Number 1 of 2024. All of these mechanisms must still pay attention to the objectives of punishment in Article 51 and the guidelines for punishment in Article 54 of Law Number 1 of 2023. The practice of implementing Article 478 of the New Criminal Code at the Pulau Punjung District Court and the application of the restorative justice and rechterlijk pardon approaches at the Sungailiat District Court indicate that these regulations are starting to be implemented in practice as a form of implementing norms, although in this study the two cases are only used as examples of the implementation of norms and not as objects of research analysis.

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