

Implementation of Restorative Justice in Resolution of Motorcycle Theft Criminal Acts in the Jurisdiction of the North Kuta Police Sector

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Abstract

The application of restorative justice in resolving motorcycle theft crimes within the jurisdiction of the North Kuta Police Sector has applied the principles of restorative justice through penal mediation, resulting in an agreement between the perpetrator and the victim. This has reduced the caseload, expedited resolution, and achieved participatory justice. However, obstacles remain, including victim resistance, differing understandings among investigators, and minimal community support. Therefore, optimizing the implementation of restorative justice requires increasing the capacity of investigators, providing outreach to the community, and strengthening technical regulations so that this approach is not merely formal but effective as a fair, efficient, and contextual justice solution. Obstacles to the police implementing restorative justice in resolving motorcycle theft crimes within the jurisdiction of the North Kuta Police Sector can be both internal and external. Internal obstacles relate to the quality of police human resources, while external obstacles include the inability of the community and related institutions to cooperate in law enforcement.

Keywords : Restorative Justice, Theft, and the North Kuta Police Sector.

Introduction

The investigation phase, as regulated by criminal procedural law, is followed by prosecution by the public prosecutor and the examination phase in court, leading up to the judge's verdict. However, law enforcement in petty theft situations tends to be more closely aligned with the philosophy of restorative justice. To find a just resolution in criminal cases involving the perpetrator, victim, their family, and other related parties, restorative justice emphasizes rebuilding the status quo rather than demanding retribution. The handling of the crime of theft in factual conditions should prioritize restorative justice resolution, as explained above, based on National Police Regulation No. 8 of 2021. However, this must meet the requirements stipulated by the police and not conflict with applicable laws and regulations, and align with the values of the objectives of the law. Restorative justice is a case resolution that prioritizes an agreement between two parties, namely the victim and the perpetrator, to seek the best outcome and prioritize justice.

By looking at the background above, the problem formulation can be drawn, including: first, the application of restorative justice in resolving motorcycle theft crimes in the jurisdiction of the North Kuta Police Sector, second, obstacles to the police implementing restorative justice in resolving motorcycle theft crimes in the jurisdiction of the North Kuta Police Sector. This study aims to determine the application of restorative justice in resolving motorcycle theft crimes in the jurisdiction

of the North Kuta Police Sector, and the obstacles

Methods

The research method used in this study is a normative research method supported by empirical research that uses various types of primary legal materials in the form of statutory regulations and secondary legal materials in the form of library materials related to the application of restorative justice as sources of research material. Johnny Ibrahim argues that normative legal research is a form of scientific research aimed at finding the truth based on the logic of legal science reviewed from the normative part, or which is in the form of an effort to discover law that is adapted to a particular case.

Results and Discussion

Implementation of Restorative Justice in Resolving Motorcycle Theft Crimes in the North Kuta Police Sector's Jurisdiction

The concept of restorative justice is a concept for resolving legal violations that occur by bringing the victim and the perpetrator (suspect) together to sit in a meeting to talk together.

According to Van Ness from Canada states that restorative justice is a theory of justice that prioritizes reparation for harm caused by criminal behavior, where recovery is completed through an inclusive and cooperative process.

The concept of restorative justice focuses not on past wrongdoing but rather on resolving the perpetrator's future responsibilities and obligations. The resistance model is replaced by dialogue and negotiation, and deterrence is replaced by reconciliation and restoration as the primary goals. The community is considered a facilitator in the restorative process, and the roles of both victims and perpetrators are recognized. Stigma must be removed through restorative actions, and the possibility of repentance and forgiveness is always open as long as they help improve the situation caused by their actions. According to Muladi, Restorative justice aims to empower victims, encouraging perpetrators to prioritize recovery. Restorative justice prioritizes fulfilling the victim's material, emotional, and social needs.

Restorative justice, as an effort to peacefully resolve conflicts outside the courts, remains difficult to implement. In Indonesia, many customary laws can serve as restorative justice, but their existence is not recognized by the state or codified in national law. Customary law can resolve conflicts that arise in society and provide satisfaction to the conflicting parties. The idea of restorative justice emerged as a critique of the criminal justice system, which relies on imprisonment for its effectiveness in resolving social conflict. This is because the parties involved in the conflict are not involved in the resolution. Victims remain victims, and imprisoned perpetrators also create new problems for their families, among other issues.

Therefore, the government that carries out the state's duties in making laws must really pay attention to the 2 (two) things that have been explained above, namely that the law should make the people prosperous and happy and the law that is created must be on the side of the people and that is what is called "law for humans". Restorative justice is an approach to justice that focuses on the needs of victims, perpetrators, and the community involved, not satisfying abstract legal principles or punishing the perpetrator.

The word "theft" in Indonesian comes from the root word "curi" which is given the prefix "pe" and the suffix "an" to form the word "pencuri". The word "theft" means the process, the act of stealing. Theft is an act that is very detrimental to others and to many people, especially those around us. Therefore, we must prevent theft, which frequently occurs in everyday life, because it often occurs due to opportunities. The Indonesian Dictionary defines theft as the act of taking another person's property illegally.

Restorative justice is an effort to resolve criminal cases by involving the perpetrator, victim, the perpetrator/victim's family, and other relevant parties to jointly seek a just resolution, emphasizing restoration to the original state rather than retaliation. The application of restorative justice during the investigation and inquiry phase is regulated and based on Indonesian National Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice.

Essentially, the resolution of criminal acts based on restorative justice at the police level involves a legal product in the form of a settlement, which is implemented through the termination of the investigation and inquiry, or the issuance of an SP3 (Investigation Termination Order), on the grounds that the perpetrator and victim have agreed to reconcile regarding the crime. Or through a peace agreement signed by the parties.

Restorative justice settlement at the police level is carried out with material and formal requirements. This is regulated in Articles 5 to 6 of Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice.

North Kuta Police Sector or Kuta Police The North Kuta Police is the National Police's task force in the North Kuta District, Badung Regency. The North Kuta Police is a territorial unit of the National Police responsible for carrying out its primary duties of maintaining security and order, enforcing the law, and providing protection, guidance, and services to the community throughout its jurisdiction, which includes the entire North Kuta District, Badung Regency.

According to the source, motorcycle theft cases can be resolved restoratively, as long as they do not violate the material and formal requirements stipulated in the Police Regulation. The source further explained the method or mechanism for implementing restorative resolution at the police level, namely by bringing together both parties—the victim, the victim's family, the perpetrator, or the perpetrator's family—to find a solution related to the motorcycle theft. The purpose of this meeting is to find a middle ground or win-win solution, ensuring that no party is harmed and prioritizing the restoration

of the rights of both the victim and the perpetrator.

Based on the results of the mediation, if an agreement to reconcile is reached, a report of the settlement agreement will be prepared, signed by the perpetrator and the victim, and approved by the investigator. The investigator can then issue a Letter of Order to Terminate Investigation (SP3) based on the fulfillment of restorative justice requirements. This settlement includes not only an apology but also compensation for losses or other agreed-upon remedies, such as the return of property or payment of damages. This process has a positive impact on both the victim and the perpetrator. For the victim, this process provides a space to directly voice their losses and see the perpetrator's personal accountability, rather than simply as a passive defendant in the courtroom. For perpetrators, especially first-time offenders, this process provides an opportunity to improve themselves and avoid the stigmatization of being a convict. Furthermore, resolving through restorative justice saves time and costs, and helps reduce the workload of the police and prosecutors.

However, this implementation is certainly not carried out haphazardly. Investigators continue to conduct a thorough assessment of the perpetrator's character, motives, and the risk of reoffending. In some cases, restorative justice is rejected when it is discovered that the perpetrator is a repeat offender or has a history of similar crimes. Therefore, the restorative approach at the North Kuta Police Station is implemented while maintaining the principles of prudence and professionalism.

In the author's opinion, in principle, Police Regulation No. 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice is intended for minor crimes or complaints. However, investigators continue to apply restorative justice in motor vehicle theft cases, provided the material and formal requirements of this regulation are met, and because of the investigator's discretion or open policy regarding the appropriateness of applying restorative justice.

Furthermore, in the context of the application of restorative justice by investigators in handling motorcycle theft crimes in the jurisdiction of the North Kuta Police Station, according to the author's analysis, motorcycle theft crimes should not be appropriate for restorative justice, as per the guidelines for handling crimes based on restorative justice (Police Regulation No. 8 of 2021). The author's analysis is also supported by the basis that motor vehicle theft is a pure or ordinary crime, where investigators are obligated to process the crime, regardless of whether or not a report is filed. Furthermore, in principle, in ordinary crimes, even if the victim has reconciled with the suspect, the legal process cannot be stopped.

Obstacles to the Implementation of Restorative Justice by the Police in Resolving Motorcycle Theft Cases in the North Kuta Police Sector's Jurisdiction

The perceived low level of public trust in law enforcement officers regarding criminal law enforcement in Indonesia must be immediately restored and rehabilitated through improvements in the

structure and substance of the law, accompanied by the establishment of a legal culture. This legal culture plays a crucial role in criminal law enforcement in Indonesia. According to Lawrence M. Friedman, the concept of legal culture refers to people's attitudes toward the law and the legal system—their beliefs, values, thoughts, and expectations. In other words, legal culture is the social climate and social forces that determine how the law is used, avoided, or abused. Without a legal culture, the legal system itself is powerless.

This theoretical explanation confirms that criminal law enforcement by the police is ideally expected to guarantee legal certainty and justice within a framework of ensuring a sense of security and order for the community. However, this is not easy to achieve, as every law enforcement officer, especially criminal law enforcers like the police, will encounter several obstacles in carrying out their duties.

In resolving restorative justice at the police level, investigators certainly face several obstacles in resolving cases. The author encountered several obstacles from the descriptive analysis based on the research results and the author's legal analysis. These obstacles are twofold: internal and external.

a. Internal obstacles, in the form of:

1. Legal factors; Legal factors are one of the internal obstacles because the legal basis for resolving restorative justice based on Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice, does not specifically regulate whether ordinary crimes such as motorcycle theft can be applied with restorative justice. This legal factor is the main factor causing obstacles in implementing restorative justice for motorcycle theft cases. This is because the Police Regulation specifically regulates the resolution of minor crimes, and this Police Regulation does not regulate ordinary crimes.
2. Law enforcement factors (Investigators); Restorative Justice in motorcycle theft cases. This factor, according to the author, is that the law enforcement factor in this case is the investigator being the reason for the obstacle in implementing identification as an obstacle due to the investigator's knowledge of the legal principles being considered minimal, because in implementing restorative justice in motorcycle theft cases, investigators only look at the formal and material requirements in this Police Regulation, not looking at the principles of ordinary crimes which basically cannot be carried out with restorative justice because investigators have an obligation to continue the case until the files are transferred to the prosecutor's office. If we look at this Perpol, it is an internal administrative regulation in terms of handling criminal acts based on restorative justice. This means that this regulation is intended for internal police in implementing restorative justice. So basically, investigators who apply restorative justice to motorcycle theft are legally wrong, because in the Criminal Code the principle of ordinary crimes is a crime or violation that must be carried out in full until the stage of transferring files to the Prosecutor's Office. This reason is based on the Criminal Code being a law and Perpol being a technical regulation. Therefore, if investigators apply restorative justice on the grounds of fulfilling the material and formal requirements contained in the Perpol, in the author's opinion, this is legally wrong because

investigators must understand the principles of the Criminal Code, where the Criminal Code is Law Number 1 of 1946 which is superior to be applied and understood in principle compared to Perpol 8 of 2021. b. External Barriers, namely 1. Perpetrator factors; Perpetrator factors are obstacles to the application of restorative justice, because perpetrators in committing motorcycle theft are mostly unable to return the motorcycle intact if the motorcycle is obtained by investigators. The perpetrator sold the motorcycle separately, preventing the perpetrator from recovering the victim's losses. 2. Community Perspectives: This factor is an obstacle because the public view of theft is very cruel and the public is also furious with acts of theft. So these views can cause many people to take the law into their own hands by beating or ganging up on the perpetrator. This causes social conflict where this social conflict is not permitted to meet the material requirements contained in Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice. 3. Lack of socialization: Police Regulation 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice is still poorly socialized to the public and there are no further regulations regarding it in the form of laws, so this is an obstacle in its implementation. Therefore, the application of restorative justice needs to be improved by including it in criminal procedural law so that investigators have a strong legal basis, and not only based on Police Regulations but also based on laws. 4. Economic factors; In essence, the occurrence of motorcycle theft in North Kuta District, Badung, is largely due to economic factors, namely poverty. This factor also serves as an obstacle to the implementation of restorative justice because no evidence in the form of the motorcycle was found because the perpetrator sold it separately. This is due to the perpetrator's own economic factors, namely the perpetrator's need for money for living expenses.

Conclusion

The application of restorative justice in resolving motorcycle theft crimes in the jurisdiction of the North Kuta Police Sector has implemented the principles of restorative justice through penal mediation that resulted in an agreement between the perpetrator and the victim, thereby reducing the caseload, accelerating resolution, and realizing participatory justice, although still facing obstacles in the form of victim rejection, differences in investigators' understanding, and minimal community support. In implementing restorative justice, there are still obstacles in the form of internal and external obstacles.

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