

ABSTRAK

PROBLEMATIKA PENERAPAN *RESTORATIVE JUSTICE* DALAM PENANGANAN PERKARA PENCURIAN DENGAN PEMBERATAN (Studi kasus di Wilayah Kejaksaan Tinggi Lampung)

oleh

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Keadilan restoratif dalam perkara pencurian dengan pemberatan menjadi salah satu mekanisme penyelesaian yang diharapkan mampu berorientasi pada pemulihan, namun dalam praktiknya masih menghadapi berbagai tantangan normatif dan struktural, seperti di wilayah hukum Kejaksaan Tinggi Lampung terkait penerapan *restorative justice* menunjukkan dinamika yang menarik: efektif secara administratif, tetapi sangat selektif secara substantif. Penelitian ini bertujuan menganalisis penerapan *restorative justice* dalam perkara pencurian dengan pemberatan serta mengidentifikasi faktor-faktor penghambat implementasinya.

Penelitian ini menggunakan metode pendekatan yuridis normatif dan yuridis empiris. Yuridis normatif untuk menelaah peraturan perundang-undangan, doktrin, teori hukum, serta konsep-konsep yang berkaitan dengan topik penelitian dan yuridis empiris untuk mengkaji pelaksanaan aturan tersebut dalam praktik, melalui pengamatan langsung serta penggalian fakta empiris di lapangan.

Hasil penelitian menunjukkan bahwa secara administratif penerapan *restorative justice* di Kejaksaan Tinggi Lampung berjalan efektif melalui pendelegasian kewenangan RJ Mandiri yang mempercepat penghentian penuntutan. Namun, secara substantif, penerapannya dalam perkara pencurian dengan pemberatan masih terbatas akibat adanya konflik norma antara Pasal 363 KUHP dengan ketentuan Surat Edaran Jampidum Tahun 2022. Hambatan paling dominan berasal dari faktor hukum dan faktor korban yang mempersempit peluang tercapainya kesepakatan damai.

Penelitian ini merekomendasikan pembaruan peraturan perundang-undangan mengenai penghentian penuntutan berbasis keadilan restoratif. Pembaruan dibutuhkan untuk menyesuaikan karakteristik khusus tindak pidana pencurian dengan pemberatan yang tidak selalu terencana, memperjelas parameter *mens rea* spontan, serta menyesuaikan batas kelayakan *restorative justice* dengan realitas kriminologis masyarakat, sehingga penerapannya dapat menjadi lebih proporsional tanpa mengurangi perlindungan bagi masyarakat.

Kata Kunci: Restorative Justice, Pencurian, Kejaksaan.

ABSTRACT

THE PROBLEMATIC OF THE IMPLEMENTATION OF RESTORATIVE JUSTICE IN HANDLING AGGRAVATED THEFT CASES (A Case Study in the Jurisdiction of the Lampung High Prosecutor's Office)

by

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Restorative justice in aggravated theft cases is one of the resolution mechanisms that is expected to be recovery-oriented, but in practice it still faces various normative and structural challenges. In the jurisdiction of the Lampung High Court, for example, the application of restorative justice shows an interesting dynamic: it is effective administratively, but very selective substantively. This study aims to analyze the application of restorative justice in aggravated theft cases and identify the factors that hinder its implementation.

This study uses a normative legal and empirical legal approach. The normative legal approach is used to examine legislation, doctrine, legal theory, and concepts related to the research topic, while the empirical legal approach is used to examine the implementation of these rules in practice through direct observation and empirical fact-finding in the field.

This study seeks to examine the application of restorative justice in aggravated theft cases and to discern the factors that impede its implementation. The results show that the RJ Mandiri mechanism, which gives authority to the Lampung High Prosecutor's Office, works well for implementing restorative justice. This speeds up the end of prosecutions. Substantively, however, its application in aggravated theft cases remains limited due to normative conflicts between Article 363 of the Indonesian Criminal Code and the provisions of the 2022 Circular Letter of the Deputy Attorney General for General Crimes. The most dominant obstacles stem from legal factors and victim-related factors, both of which significantly narrow the possibility of achieving a peace agreement.

This study recommends reforming statutory regulations governing prosecution termination based on restorative justice. Such reform is necessary to accommodate the specific characteristics of aggravated theft offenses, which are not always premeditated, to clarify the parameters of spontaneous mens rea, and to adjust the eligibility criteria for restorative justice in accordance with societal criminological realities. These measures are expected to ensure a more proportional application of restorative justice without undermining public protection.

Keywords: Restorative Justice, Theft, Prosecutor's Office.