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DOI: 10.46924/jihk.v8i2.582

The Application of Restorative Justice in Theft Cases: An Analysis of Judgment Number 123/Pid.B/2025/PN Kng

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How to cite

Erdiyanto, Rizqy Pratama., & Rasji Rasji. 2027. The Application of Restorative Justice in Theft Cases: An Analysis of Judgment Number 123/Pid.B/2025/PN Kng. *Jurnal Ilmu Hukum Kyadiren* 8(2), 482-498. https://doi.org/10.46924/jihk.v8i2.582

Original Article

Abstract

The growing application of restorative justice raises important questions concerning the limits of victim compensation and offender accountability, particularly when restitution is provided by the defendant's family rather than by the defendant personally. This study examines how the panel of judges interpreted the principle of restitutio in integrum as a legal basis for applying restorative justice and imposing a suspended sentence, as well as the legal implications of payments made by a defendant's family under Supreme Court Regulation (PERMA) No. 1 of 2024. This study employs normative legal research using statutory and conceptual approaches The findings indicate that the court regarded the return of a mobile phone through seizure and the payment of repair costs as sufficient measures to restore the victim's losses. The return of property through seizure cannot, in itself, be regarded as a restorative measure undertaken by the defendant. Similarly, although payments made by the first defendant's wife constitute a legitimate form of family support, they do not automatically demonstrate the defendants' personal accountability for their criminal conduct. This study concludes that the application of restorative justice must go beyond the mere restoration of the victim's material losses. It must also ensure the active participation and individual accountability of each defendant in addressing the consequences of their criminal conduct.

Keywords: *Restorative Justice, Restitution, Compensation, Offender Accountability*

Abstrak

Perkembangan keadilan restoratif menimbulkan persoalan mengenai batas pemulihan kerugian dan pertanggungjawaban pelaku, khususnya ketika penggantian kerugian dilakukan oleh keluarga terdakwa. Penelitian ini bertujuan menganalisis pemaknaan Majelis Hakim terhadap restitutio in integrum sebagai dasar penerapan keadilan restoratif dan pidana percobaan serta kedudukan pembayaran oleh keluarga terdakwa berdasarkan PERMA Nomor 1 Tahun 2024. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan konseptual terhadap Putusan Nomor 123/Pid.B/2025/PN Kng. hakim memandang pengembalian telepon melalui penyitaan dan pembayaran biaya perbaikan sebagai pemulihan kerugian korban. Namun, pengembalian melalui penyitaan bukan tindakan restoratif terdakwa. Pembayaran oleh istri Terdakwa I sah sebagai dukungan keluarga, tetapi tidak otomatis membuktikan tanggung jawab kedua terdakwa. Penelitian menyimpulkan bahwa penerapan keadilan restoratif perlu menilai pemulihan korban sekaligus keterlibatan aktif setiap terdakwa dalam mempertanggungjawabkan akibat tindak pidana.

Kata kunci: *Keadilan Restoratif, Restitusi, Ganti Kerugian*

1. INTRODUCTION

Criminal law serves as an instrument through which the state responds to conduct classified as criminal while simultaneously constraining the exercise of state authority through legally established enforcement mechanisms. In its narrow sense, criminal law concerns the study of positive law (ius constitutum), whereas, in its broader sense, it encompasses the examination of the causes of criminal behavior, crime prevention strategies, and the formulation of an ideal criminal justice framework (ius constituendum).[1] Criminal law should not be understood merely as a collection of prohibitions and corresponding sanctions. Rather, it constitutes a normative system that requires continuous evaluation in response to societal developments and evolving demands for justice. Criminal law reform is therefore an integral component of criminal law policy and must remain responsive to social change, particularly in determining the underlying orientation and objectives of sentencing.[2]

This development is reflected in a paradigm shift in sentencing, from a predominantly retributive approach, which emphasizes punishment for the offender, toward a more comprehensive framework that also considers the interests of victims and the restoration of harm caused by criminal conduct.[3] A sentencing approach focused exclusively on offenders risks neglecting the material, physical, and psychological harm experienced by victims. Restorative justice has emerged as a response to structural imbalances within the criminal justice system, which has historically prioritized the interests of the state and offenders over those of victims. This paradigm shift is also consistent with developments in contemporary criminal law theory, which emphasize social protection, the individualization of punishment, and the principle of *ultimum remedium*, whereby criminal law is regarded as a measure of last resort.[4]

Within the Indonesian criminal justice system, restorative justice has acquired a procedural basis at the trial stage through Supreme Court Regulation No. 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice (PERMA No. 1/2024). This regulation establishes the restoration of the original condition, the protection of victims' rights, and the accountability of defendants as fundamental considerations for judges, without eliminating criminal liability. Accordingly, the effectiveness of restorative justice cannot be measured solely by whether the parties reach a settlement agreement. It must also be evaluated in terms of

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1 Eddy O. S. Hiariej, *Prinsip-Prinsip Hukum Pidana* (Cahaya Atma Pustaka, 2016).

2 Barda Nawawi Arief, *Masalah Penegakan Hukum Dan Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan*, 5th ed. (Kencana-Prenada Media Group, 2018).

3 Sunardi Sunardi, *Keadilan Restoratif Dalam Sistem Peradilan Pidana Indonesia: Konsep, Implementasi, Dan Tantangan* (Penerbit Adab, 2025).

4 Douglas Husak, *Overcriminalization: The Limits of the Criminal Law* (Oxford University Press, 2008).

the extent to which the restoration of losses corresponds to the offender's actual accountability.

These issues are illustrated by Kuningan District Court Decision No. 123/Pid.B/2025/PN Kng, which concerns aggravated theft under Article 363(1)(4) of the Indonesian Criminal Code. In reaching its decision, the panel of judges considered the existence of a settlement agreement, the victim's forgiveness, and a payment of IDR 1,000,000 for mobile phone repair costs. The court subsequently imposed a one-year prison sentence with a six-month probationary period. Nevertheless, the decision raises questions concerning the interpretation of restitutio in integrum, particularly because the mobile phone was returned through the seizure of evidence, whereas the financial compensation was provided by the wife of one of the defendants. This factual arrangement raises important legal questions regarding the scope of the principle of restoring the victim's original condition and the legal status of third-party payments in satisfying the requirement of defendant accountability under PERMA No. 1/2024.

Academic discussions of restorative justice within the Indonesian criminal justice system have increasingly addressed its implementation mechanisms, the effectiveness of alternative case resolution, and the normative and practical challenges encountered at different stages of law enforcement. For example, Yudiansyah et al. examine the implementation of restorative justice in resolving minor criminal offenses at the police investigation stage. Their findings indicate that restorative resolution involves several procedures, including requests for reconciliation, formal case examinations through case presentations, and the termination of investigations. The study also identifies several obstacles, including cases involving offenders from outside the local jurisdiction, the offender's status as a recidivist, and discrepancies between victims' demands and offenders' financial capacity to provide compensation. These findings suggest that the effectiveness of restorative justice depends not merely on the existence of an agreement between the parties but also on law enforcement officials' ability to ensure that the resolution is appropriate, fair, and sustainable.[5]

Similarly, Dasuha and Sinaga investigate the application of restorative justice in cases of minor assault. Their research highlights the benefits of penal mediation in restoring social relationships and reducing the burden on the criminal justice system. However, it also identifies several implementation challenges, including differences in interpretation among law enforcement officials, limited mediator competence, and the absence of a comprehensive and integrated regulatory framework governing restorative justice.[6] Meanwhile, Abubakar et al. demonstrate that the application of restorative

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[5] Rizki Yudiansyah et al., "Penerapan Restorative Justice Dalam Penyelesaian Tindak Pidana Ringan Di Ruang Lingkup Polres Metro Jakarta Barat," *Global Research and Innovation Journal* 2, no. 1 (2026): 1418–32.

[6] Deniro Fadjar Fachriza Purba Dasuha and Budiman Sinaga, "Rekonstruksi Kebijakan Penerapan Restorative Justice Dalam Penyelesaian Tindak Pidana Penganiayaan Ringan Untuk Mewujudkan Keadilan Restoratif Di Indonesia," *Jurnal ISO: Jurnal Ilmu Sosial, Politik Dan Humaniora* 6, no. 1 (2025): 1–10, https://doi.org/10.53697/iso.v6i1.3216.

justice to petty theft cases at the investigation stage can facilitate relatively straightforward case resolution by prioritizing the restoration of victims' losses. Nevertheless, their study also highlights the potential for abuse of discretionary authority and inconsistencies in implementation.[7]

In the context of theft offenses, Farhan examines the application of restorative justice in Court Decision No. 28/Pid.B/2022/PN Lbb. The findings indicate that a settlement agreement between the victim and the defendant may be considered by the judge during judicial proceedings, even in the absence of comprehensive and specific guidelines governing the implementation of restorative justice in the courts at the time.[8] Pujianto further investigates the resolution of theft cases through restorative justice at the prosecution stage, demonstrating that the success of such resolutions depends on several factors, including the offender's background, the motive underlying the criminal conduct, and the agreement reached between the parties.[9] Similarly, Setiawan et al. find that the resolution of petty theft cases through penal mediation at the Jombang District Police (Polres Jombang) is influenced by regulatory clarity and local wisdom. Nevertheless, the process continues to encounter several challenges, including demands for retributive punishment and the absence of a consistent understanding of restorative justice among law enforcement officials.[10]

Research by Yosua M. S. and Saleh specifically addresses aggravated theft and identifies the absence of clear normative criteria and regulatory inconsistencies concerning the application of restorative justice to such offenses.[11] In a separate study, Akbar et al. analyze Court Decision No. 436/Pid.B/2025/PN Tjk and find that settlement agreements and compensation payments continue to be treated merely as mitigating circumstances in sentencing.[12] Studies focusing on juvenile offenders, including those conducted by Ronaldo and Rahaditya and Palohon et al., likewise emphasize the importance of restoring social relationships and ensuring offender

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7 Asfendi Wijaya Abubakar et al., "Analisis Hukum Terhadap Penerapan Restorative Justice Dalam Penyelesaian Tindak Pidana Pencurian Ringan Pada Tahap Penyidikan," *Seikat: Jurnal Ilmu Sosial, Politik Dan Hukum* 5, no. 3 (2026): 1274–92, https://doi.org/10.55681/seikat.v5i3.2911.

8 Ahmad Farhan, "Penerapan Restorative Justice Dalam Tindak Pidana Pencurian Pada Tahap Pemeriksaan Di Persidangan: Studi Kasus Putusan Nomor 28/Pid.B/2022/Pn.Lbb," *Hukum Responsif* 14, no. 1 (2023): 38–51, https://doi.org/10.33603/responsif.v14i1.8383.

9 Natanael Alvin Pujianto, "Penerapan Keadilan Restoratif Dalam Penyelesaian Kasus Tindak Pidana Pencurian: Studi Kasus Di Kejaksaan Negeri Grobogan" (Universitas Katolik Soegijapranata, 2025), https://repository.unika.ac.id/36907/.

10 Dicky Indra Setiawan et al., "Penerapan Keadilan Restoratif Pada Tindak Pidana Pencurian Ringan Berdasarkan UU No. 1/2023 Di Polres Jombang," *Jurnal Ilmiah Penelitian Mahasiswa* 4, no. 6 (2026): 78–91, https://doi.org/10.61722/jipm.v4i6.3127.

11 Richard Yosua M. S. and Mohamad Saleh, "Penerapan Restorative Justice Pada Tindak Pidana Pencurian Dengan Pemberatan Dalam Perspektif Kepastian Hukum," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 6, no. 5 (2026): 3557–69, https://doi.org/10.38035/jihhp.v6i5.8708.

12 Muhammad Fadhil Akbar et al., "Implementasi Keadilan Restoratif Pada Perkara Tindak Pidana Pencurian Dengan Pemberatan," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 2 (2026): 3222–28, https://doi.org/10.61104/alz.v4i2.4765.

accountability, although their analyses are situated within the juvenile criminal justice system.[13]

Despite these contributions, an important research gap remains concerning the relationship between the interpretation of restitutio in integrum (restoration to the original condition), the return of property through seizure, and compensation payments made by a defendant's family in the application of Supreme Court Regulation No. 1 of 2024 (PERMA No. 1/2024) during judicial proceedings. Unlike previous studies, this article specifically examines the consistency of judicial reasoning in Decision No. 123/Pid.B/2025/PN Kng by evaluating the application of the principles of restoring the victim's original condition and establishing the defendant's personal accountability. In doing so, this study offers a normative legal analysis of the limits of third-party contributions and their implications for offender accountability within the restorative justice framework.

This study aims to examine the application of restorative justice principles in Kuningan District Court Decision No. 123/Pid.B/2025/PN Kng in light of Supreme Court Regulation No. 1 of 2024. Specifically, it pursues two objectives. First, it analyzes the judicial panel's reasoning in interpreting the principle of restoring the original condition (restitutio in integrum) as a legal basis for applying restorative justice and imposing a suspended sentence, particularly with respect to the return of the victim's property through seizure and the payment of repair costs. Second, it examines the legal status of compensation payments made by a defendant's family and assesses whether such payments satisfy the defendant's accountability requirements under the restorative justice framework established by PERMA No. 1/2024.

2. RESEARCH METHODOLOGY

This study employs normative legal research to examine the application of restorative justice in Decision Number 123/Pid.B/2025/PN Kng, particularly concerning the interpretation of restitutio in integrum and the attribution of compensation paid by the defendant's family. The research uses three complementary approaches: the statutory approach and the conceptual approach. The statutory approach examines the relevant legal framework, particularly Law Number 48 of 2009 concerning Judicial Power and Supreme Court Regulation Number 1 of 2024 on Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. The conceptual approach analyzes the principles of restorative justice, victim restoration, criminal responsibility, and proportionality in

[13] Frangki Palohon et al., "Penerapan Prinsip Keadilan Restoratif Dalam Pertanggungjawaban Pidana Anak Pelaku Pencurian," *Jurnal Sosial Humaniora Dan Pendidikan* 5, no. 2 (2026): 151–58, https://doi.org/10.55606/inovasi.v5i2.5771; Rhesa Ronaldo and Rahaditya Rahaditya, "Penerapan Keadilan Restoratif (Restorative Justice) Terhadap Penjatuhan Pemidanaan Terhadap Anak Pelaku Dalam Perkara Tindak Pidana Pencurian Bersama Dengan Pelaku: Studi Putusan Nomor 6/Pid.Sus-Anak/2022/PN Srg," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 10, no. 6 (2023): 3005–11, https://doi.org/10.31604/jips.v10i6.2023.3005-3011.

sentencing. The legal materials consist of primary sources, including legislation and judicial decisions, and secondary sources, including scholarly books, journal articles, and relevant legal commentaries. These materials are collected through library research and analyzed qualitatively using a prescriptive and analytical method. The analysis evaluates the consistency of judicial reasoning with the normative principles governing victim restoration and the defendant's responsibility under restorative justice.

3. RESEARCH RESULT AND DISCUSSION

3.1. Interpreting the Restoration of the Original Condition as a Basis for Applying Restorative Justice and Imposing a Suspended Sentence

The case arose from the actions of two defendants who jointly committed the theft of an iPhone 13 Pro belonging to a victim at the AAD grocery store in Kuningan Regency on September 3, 2025. The defendants carried out the offense by dividing their respective roles: the first defendant took the mobile phone, while the second defendant distracted the store owner by offering merchandise. The incident was recorded by the store's CCTV system, and the theft resulted in damage to the back glass of the mobile phone. According to the indictment, the victim's total loss amounted to IDR 11,000,000, consisting of IDR 10,000,000 for the value of the mobile phone and IDR 1,000,000 for repair costs. The mobile phone was subsequently recovered and presented as evidence during the trial. This distinction is legally significant because it highlights the difference between the total loss alleged in the indictment and the remaining material loss after the victim's property had been recovered.

The victim expressed willingness to resolve the case through restorative justice, subject to two conditions: payment of IDR 1,000,000 to cover the mobile phone repair costs and the execution of a written settlement agreement. Both conditions were fulfilled by the wife of the first defendant, who met with the victim, provided the requested payment, and formalized a written settlement agreement dated November 29, 2025. Based on these circumstances, the panel of judges considered the settlement agreement, the victim's forgiveness, the payment of repair costs, and the recovery of the mobile phone, which was to be returned to its rightful owner. These circumstances formed the basis for the judges' conclusion that the circumstances of both the defendants and the victim had been restored to their pre-offense condition (restitutio in integrum).

The panel's decision to apply restorative justice was grounded in Article 6(1) of Supreme Court Regulation No. 1 of 2024 (PERMA No. 1/2024). This provision permits judges to apply restorative justice guidelines to criminal offenses carrying a maximum penalty of five years' imprisonment under any of the charges brought against the defendant. In this case, the panel relied on Article 362 of the Indonesian Criminal Code, which was included as one of the alternative charges and carries a maximum

prison sentence of five years. This approach was adopted even though the offense ultimately established by the court fell under Article 363(1)(4) of the Criminal Code, which carries a maximum prison sentence of seven years. Meanwhile, the eligibility criterion concerning offenses resulting in losses not exceeding IDR 2,500,000, as stipulated in Article 6(1)(a), was inapplicable because the total loss specified in the indictment amounted to IDR 11,000,000. Accordingly, the application of restorative justice in this case was based on the interpretation of the alternative charge and its corresponding maximum penalty, rather than on the monetary threshold for the victim's loss.

The application of restorative justice must also be assessed against the requirements established under Article 6(2) and Article 7(2) of PERMA No. 1/2024. These requirements include the willingness of the victim and defendants to reach a settlement, the absence of hierarchical or dependent relationships that could create an imbalance of power, the absence of prior criminal convictions, and the defendants' admission of their actions. The fulfillment of these conditions provides a legal basis for judges to facilitate a restorative resolution during trial proceedings. Nevertheless, compliance with these formal requirements does not automatically establish that comprehensive restoration has occurred. The substantive issue concerns whether the judges adequately connected the settlement arrangements and the recovery of the victim's losses to their conclusion that the victim's original condition had been fully restored.

A criminal offense constitutes not only a violation of individual rights but also a disruption of social relationships. Therefore, its resolution should address the harm caused and respond to the needs of those affected. In this regard, Ness and Strong identify victim needs, offender accountability, and the active participation of all parties as essential elements of the restorative justice process.[14] Applying this framework, the restoration achieved in the present case can be regarded as sufficient at the material level, insofar as the mobile phone was recovered and the repair costs were paid in accordance with the victim's stated requirements. Furthermore, the victim's willingness to accept compensation and grant forgiveness indicates that the resolution was not determined solely by the defendants' intentions but also reflected consideration of the victim's needs and preferences. This approach is consistent with the principles of restoring the original condition and resolving disputes through mutual agreement, as provided under Article 2(a) and (e) of PERMA No. 1/2024. It also corresponds to the judges' obligation to inquire into the victim's losses and needs pursuant to Article 8(2)(b) of the same regulation.

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[14] Daniel W. Van Ness and Karen Heetderks Strong, "Restorative Justice: Justice That Promotes Healing," in *Restoring Justice: An Introduction to Restorative Justice*, 5th ed. (Elsevier Inc., 2015), https://doi.org/10.1016/B978-1-4557-3139-8.00003-0.

The panel of judges' interpretation of restitutio in integrum remains primarily focused on material restitution and does not fully encompass the broader dimensions of restoration contemplated by restorative justice principles. At least three fundamental issues warrant further examination.

First, the return of the mobile phone to the victim did not result from any restorative action undertaken by the defendants but rather from law enforcement authorities' successful efforts to locate and seize the evidence. The return of recovered property must therefore be distinguished from reparative measures voluntarily undertaken by offenders. In this case, the only restorative measure arising directly from the settlement agreement was the payment of IDR 1,000,000 for repairs to the device's damaged back glass. This distinction is essential to prevent the recovery of property through ordinary law enforcement procedures from being automatically construed as evidence of the defendants' restorative accountability.

Second, the judges' reasoning does not adequately address the potential nonmaterial harm suffered by the victim. Theft occurring at a business establishment involves more than the loss of tangible property; it may also undermine the victim's sense of security, peace of mind, and confidence in conducting business operations. This consideration is particularly important because Article 12(1)(a) of Supreme Court Regulation No. 1 of 2024 (PERMA No. 1/2024) explicitly recognizes the impact of a criminal offense on the victim as a factor that judges must consider. Third, the judgment does not substantively explain how relationships among the defendants, the victim, and the surrounding community were restored. Although an apology was offered and accepted, the judges' reasoning does not establish how these actions contributed to restoring the victim's sense of security or rebuilding public trust. This issue is particularly relevant because the theft was premeditated and targeted a randomly selected business establishment. Consequently, its impact extended beyond the immediate relationship between the offenders and the victim, potentially undermining the broader sense of security within the local business community.

The interpretation of restitutio in integrum adopted in this judgment is defensible only in a limited sense, namely, as referring to the reparation of outstanding material losses.[15] However, such an interpretation is insufficient when evaluated against the broader objective of comprehensively addressing the consequences of criminal conduct. A fundamental distinction must therefore be drawn between satisfying the requirements for a settlement and achieving substantive restorative justice. Although a settlement agreement constitutes an important indicator of restorative resolution, it cannot serve as the sole measure of its success. Meaningful restoration must also address the victim's psychological needs, the offender's accountability, and the broader

[15] Mohamad Alshible, "Legal Dilemmas of Restoring the Status Quo Ante in Crimes Against Real Property," *Social Sciences & Humanities Open* 14 (December 2026): 103305, https://doi.org/10.1016/j.ssaho.2026.103305.

social consequences of the criminal offense. Accordingly, judicial reliance on the concept of restitutio in integrum should be accompanied by a clear explanation of the dimensions of restoration that have been fulfilled and those that remain unresolved.

The judges' reasoning is also closely connected to their decision to impose a suspended sentence. The panel emphasized that, notwithstanding the settlement agreement and the restoration of the parties' circumstances, the defendants should still receive criminal sanctions to preserve the rule of law and uphold social justice. This consideration is consistent with Article 3(2) of PERMA No. 1/2024, which clarifies that the application of restorative justice does not eliminate criminal liability. Furthermore, because aggravated theft constitutes an ordinary criminal offense (delik biasa), a settlement agreement between the parties does not automatically terminate the prosecution. In this context, restorative justice functions as a consideration in determining the nature and severity of the sentence rather than as a mechanism for absolving the defendants of guilt or criminal liability.

Article 19(1) of PERMA No. 1/2024 provides that a settlement agreement and/or the defendant's willingness to assume responsibility for the victim's losses or needs may be considered a mitigating factor in sentencing or serve as a basis for imposing a suspended sentence or a sentence subject to supervision. The panel of judges applied this provision by sentencing each defendant to one year of imprisonment, with the condition that the sentence would not be enforced unless, during the six-month probationary period, a subsequent court decision established that the defendant had committed another criminal offense. This sentencing arrangement was based on Article 14a(1) of the Indonesian Criminal Code (KUHP), which authorizes judges to suspend the execution of a prison sentence of up to one year, subject to specified conditions. Such a suspended sentence preserves the judicial finding of guilt and the defendants' criminal liability while allowing them to avoid actual imprisonment, provided that they comply with the conditions established by the court.

This sentencing approach can be explained through an integrated theory of punishment that combines the principles of retribution, deterrence, and offender rehabilitation.[16] The retributive dimension is preserved through the imposition of a one-year prison sentence, while the preventive and rehabilitative objectives are pursued through a six-month probationary period. This approach is also consistent with the principle of criminal law as a measure of last resort (ultimum remedium), as provided under Article 2(d) of Supreme Court Regulation No. 1 of 2024 (PERMA No. 1/2024). Where the victim's material losses have been restored and forgiveness has been granted, the actual execution of a prison sentence need not constitute the only means of achieving the objectives of punishment. Nevertheless, it is important to consider that

[16] Arga Chon Feriandref et al., "Transformasi Tujuan Pemidanaan Di Indonesia: Systematic Literature Review Mengenai Perkembangan Teori, Kebijakan, Dan Implementasi Keadilan Restoratif Di Era Baru Hukum Pidana," *Iuris Studia: Jurnal Kajian Hukum* 7, no. 1 (2026): 22–33, https://doi.org/10.55357/is.v7i1.1155.

the defendants had been detained from September 3, 2025, until the judgment was delivered on December 17, 2025. Accordingly, the suspended sentence in this case is more appropriately understood as a means of preventing further deprivation of liberty rather than as a complete avoidance of imprisonment.

Compared with previous studies, these findings offer both a distinct perspective and a further development of existing legal arguments. Farhan's study of Decision No. 28/Pid.B/2022/PN Lbb demonstrates that, in theft cases, a settlement agreement between the parties may be considered by the judge even in the absence of comprehensive and specific guidelines governing the application of restorative justice at the trial stage.[17] Meanwhile, Akbar et al., in their analysis of Decision No. 436/Pid.B/2025/PN Tjk, find that settlement agreements and compensation payments continue to be treated primarily as mitigating circumstances in sentencing.[18] The present study extends these findings by demonstrating that, following the enactment of PERMA No. 1/2024, reconciliation and reparation may serve not merely as mitigating factors but also as a normative basis for imposing a suspended sentence under Article 19(1). Furthermore, unlike studies examining case resolution mechanisms at the police investigation and prosecution stages, such as those conducted by Pujianto and Yudiansyah et al.,[19] this study focuses on the substantive quality of judicial reasoning in evaluating the adequacy of reparation.

The panel of judges has established a normatively defensible framework for applying restorative justice, particularly by connecting reconciliation and the payment of repair costs with the imposition of a suspended sentence. Nevertheless, the interpretation of restitutio in integrum remains limited to material restoration, without sufficiently addressing the nonmaterial consequences of the offense or the restoration of social relationships. Accordingly, the application of restorative justice at the trial stage should not depend exclusively on the existence of a settlement agreement or evidence of compensation payments. Rather, it requires a substantive assessment of the nature, scope, and sustainability of the reparation provided. The effectiveness of PERMA No. 1/2024 ultimately depends on judges' ability to distinguish between the recovery of property as a consequence of ordinary law enforcement procedures and reparative actions voluntarily undertaken by offenders. At the same time, judges must ensure that the actual extent of reparation is appropriately reflected in the proportionality of the sentence imposed.

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17 Farhan, "Penerapan Restorative Justice Dalam Tindak Pidana Pencurian Pada Tahap Pemeriksaan Di Persidangan: Studi Kasus Putusan Nomor 28/Pid.B/2022/Pn.Lbb."

18 Akbar et al., "Implementasi Keadilan Restoratif Pada Perkara Tindak Pidana Pencurian Dengan Pemberatan."

19 Pujianto, "Penerapan Keadilan Restoratif Dalam Penyelesaian Kasus Tindak Pidana Pencurian: Studi Kasus Di Kejaksaan Negeri Grobogan"; Yudiansyah et al., "Penerapan Restorative Justice Dalam Penyelesaian Tindak Pidana Ringan Di Ruang Lingkup Polres Metro Jakarta Barat."

3.2. Compensation for Losses Provided by the Defendant's Family in Light of the Principle of Offender Accountability

In principle, the involvement of a defendant's family in compensating a victim for losses is permissible. However, such involvement does not automatically release the defendant from personal accountability for the criminal conduct committed. Supreme Court Regulation No. 1 of 2024 (PERMA No. 1/2024) provides a legal basis for family participation in the restorative justice process. Article 1(1) expressly recognizes the defendant's family as one of the parties who may participate in restorative efforts.

This provision indicates that restorative resolution is not necessarily confined to the direct relationship between the victim and the offender but may also involve the immediate social networks of the parties concerned. In the present case, the mobile phone repair costs, amounting to IDR 1,000,000, were paid by the wife of the first defendant. The victim accepted the payment, which was subsequently incorporated into a written settlement agreement. This payment produced a tangible restorative outcome by satisfying the victim's need for compensation for the repair costs. The participation of the first defendant's wife is therefore consistent with the framework for family involvement recognized under PERMA No. 1/2024.

Family participation must be distinguished from the transfer or substitution of criminal responsibility. The family members of adult defendants cannot be equated with parents or legal guardians involved in the juvenile criminal justice system. In this case, both defendants, aged 27 and 44, were adults with full legal capacity and were therefore personally accountable for their actions. Accordingly, financial assistance from family members is more appropriately characterized as support in fulfilling restitution obligations rather than as a substitute for the defendants' own responsibility. This distinction is grounded in Article 2(c) of PERMA No. 1/2024, which establishes offender accountability as a fundamental principle of restorative justice. Furthermore, Article 3(1)(c) identifies the promotion of offender accountability as one of the principal objectives of adjudication under this framework.

The emphasis on personal accountability is further reflected in Article 18(1) of PERMA No. 1/2024, which identifies several forms of settlement agreements implemented through the defendant's actions, including providing compensation, performing specific acts, or refraining from particular conduct. In addition, Article 19(1) connects the defendant's willingness to assume responsibility with the possibility of imposing a more lenient sentence and/or a suspended sentence. Within the restorative justice framework, restoration cannot be evaluated solely on the basis of whether the victim has objectively received compensation. It must also be assessed in terms of whether the defendant has demonstrated a genuine willingness to accept responsibility and actively participate in addressing the consequences of the criminal conduct.

Decision No. 123/Pid.B/2025/PN Kng reveals a potential gap between satisfying the victim's needs and establishing the defendants' active accountability. The facts presented during the trial indicate that the compensation was provided by the wife of the first defendant. By contrast, the defendants' own expressions of accountability consisted primarily of admitting their guilt, expressing remorse, offering apologies, and promising not to repeat the offense. Although the victim received compensation, the judgment does not clearly establish whether the payment made by the first defendant's wife was requested or expressly authorized by the defendants, whether either defendant made a personal financial contribution, or how the second defendant participated in the restorative process.

This omission is particularly significant because both defendants were found to have jointly committed the theft, with each performing a clearly defined role, yet both received identical sentences. The benefits of the settlement agreement extended to both defendants, whereas the reported source of compensation came exclusively from the family of one defendant. The absence of an explanation concerning the second defendant's contribution raises important questions about the individualization of responsibility within the restorative justice process. Although a single settlement agreement may legitimately benefit multiple defendants, its application should be based on the acknowledgment and acceptance of responsibility by each defendant.

Ideally, the judicial reasoning should explicitly identify the basis on which each defendant accepted and assumed responsibility for the reparation provided to the victim. Without such clarification, there is a risk that compensation paid by a family member will be treated as though it constituted a restorative action personally undertaken by the defendant. Such an approach could blur the distinction between family support and individual offender accountability, thereby weakening one of the fundamental principles underlying restorative justice.

These findings underscore the distinction between the restoration of victims' losses and the personal accountability of offenders. Zehr identifies the acknowledgment of harm and the offender's responsibility to address its consequences as fundamental elements of restorative justice.[20] Similarly, Ness and Strong emphasize that accountability should be cultivated through a participatory process that enables offenders to understand the consequences of their actions and take meaningful steps toward making amends.[21] Within Braithwaite's theoretical framework, the involvement of family members and the immediate community can facilitate an offender's reintegration into society.[22] Accordingly, the payment made by the wife of the first defendant may be regarded as a form of constructive social support. Nevertheless, such assistance should be accompanied by a clear explanation of how the defendant

[20] Howard Zehr, *The Little Book of Restorative Justice* (Good Books, 2015).
[21] Ness and Strong, "Restorative Justice: Justice That Promotes Healing."
[22] John Braithwaite, *Crime, Shame and Reintegration* (Cambridge University Press, 1989).

personally acknowledges and assumes responsibility for the harm caused. Based on the available evidence, accountability in this case was demonstrated primarily through the defendants' admission of wrongdoing, expressions of remorse, and acceptance of the legal consequences, rather than through proactive efforts by the defendants themselves to compensate the victim for the losses incurred.

This assessment must, however, be undertaken in a proportionate manner. The defendants, who were employed as casual laborers and private-sector workers, were reportedly motivated by economic considerations and had remained in custody since the incident occurred. These circumstances may have constrained their individual financial capacity to provide direct restitution. Article 12(1)(d) of Supreme Court Regulation No. 1 of 2024 (PERMA No. 1/2024) requires judges to assess the defendant's ability to fulfill the terms of a settlement agreement, while Article 12(2)(e) requires that the agreed obligations be feasible for the defendant to perform as part of the accountability process. Family assistance may therefore provide a practical solution by ensuring that victims receive compensation without having to wait until defendants acquire sufficient financial resources. The legal issue in this case does not arise from the fact that compensation was provided by the defendants' family members. Rather, it concerns the absence of a clear explanation of how such payments relate to the willingness and personal accountability of each defendant.

Another important consideration is the principle of equality before the law. If payments made by defendants' family members are automatically equated with actions personally undertaken by the defendants, without further judicial assessment, individuals with greater family financial resources may have a better opportunity to obtain lenient sentences than those whose families lack comparable economic capacity. Such an approach risks creating the perception that access to the benefits of restorative justice depends on the socioeconomic status of the defendant's family. To prevent this inequality, judges must distinguish between family contributions toward victim restitution and the accountability demonstrated by defendants themselves. Such accountability may be evidenced by their consent to the settlement agreement, the provision of a direct apology, a willingness to reimburse the victim's losses where financially feasible, or the fulfillment of other proportionate obligations mutually agreed upon by the parties.

Article 19(2) of PERMA No. 1/2024 authorizes judges to impose specific conditions in connection with a suspended sentence. Similarly, Article 14c of the former Indonesian Criminal Code (KUHP) permits the imposition of special conditions, including the payment of compensation or the fulfillment of particular obligations. These legal mechanisms can help ensure that financial assistance provided by family members does not eliminate the defendant's personal responsibility. Nevertheless, any conditions imposed must reflect the defendant's actual financial capacity and must not

create a disproportionate burden. It is also important to note that the judgment was delivered on December 17, 2025, before Law No. 1 of 2023 concerning the Criminal Code (the new KUHP) entered into force on January 2, 2026. From the perspective of legal development, Article 54(1)(f) and (j), together with Article 70(1)(e) of the new Criminal Code, further emphasizes the relevance of an offender's conduct following the commission of a criminal offense, including the provision of compensation to the victim, as a consideration in sentencing. These provisions reinforce the importance of distinguishing between reparative actions undertaken by offenders themselves and financial assistance provided by third parties.

The findings also extend existing scholarly discussions. Farhan, through an analysis of Decision No. 28/Pid.B/2022/PN Lbb, demonstrates that reconciliation and the restoration of victims' losses may be considered by judges when adjudicating theft cases.[23] Meanwhile, Akbar et al., in their examination of Decision No. 436/Pid.B/2025/PN Tjk, identify reconciliation and compensation as mitigating circumstances that do not, in themselves, alter the legal classification or seriousness of aggravated theft.[24] Furthermore, studies by Pujianto and Yudiansyah et al. highlight the importance of settlement agreements and victim restitution in the implementation of restorative justice at the police investigation and prosecution stages.[25] Unlike these previous studies, which primarily examine reconciliation, compensation, and the implementation of restorative justice during the pretrial stages, the present study focuses specifically on the normative limits of compensation provided by the families of adult defendants and its relationship to the principle of individual offender accountability during judicial proceedings.

The compensation provided by the defendant's family in Decision No. 123/Pid.B/2025/PN Kng is legally permissible and may be recognized as part of the restoration of the victim's interests under Supreme Court Regulation No. 1 of 2024 (PERMA No. 1/2024). However, such payment does not, in itself, establish that the principle of offender accountability has been substantively fulfilled. A significant shortcoming of the judgment is its failure to clearly distinguish between the family's financial contribution and the individual accountability demonstrated by each defendant, particularly the second defendant. Accordingly, the application of restorative justice should not be evaluated solely on the basis of whether the victim has received compensation, but also on the extent to which each offender consciously and proportionately assumes responsibility for the consequences of their criminal conduct. This distinction is essential to ensure that family involvement serves as a constructive

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[23] Farhan, "Penerapan Restorative Justice Dalam Tindak Pidana Pencurian Pada Tahap Pemeriksaan Di Persidangan: Studi Kasus Putusan Nomor 28/Pid.B/2022/Pn.Lbb."

[24] Akbar et al., "Implementasi Keadilan Restoratif Pada Perkara Tindak Pidana Pencurian Dengan Pemberatan."

[25] Pujianto, "Penerapan Keadilan Restoratif Dalam Penyelesaian Kasus Tindak Pidana Pencurian: Studi Kasus Di Kejaksaan Negeri Grobogan"; Yudiansyah et al., "Penerapan Restorative Justice Dalam Penyelesaian Tindak Pidana Ringan Di Ruang Lingkup Polres Metro Jakarta Barat."

component of the restorative process rather than reducing restorative justice to a mere compensation mechanism in which the benefits of sentencing depend more on the family's financial capacity than on the offender's own accountability.

4. CONCLUSION

The panel of judges considered the return of the mobile phone through the seizure process and the payment of repair costs as evidence that the victim's losses had been redressed. However, the recovery of property through seizure does not constitute a restorative action undertaken by the defendants themselves, and the reparation achieved in this case was predominantly material in nature. Although the payment made by the first defendant's wife represents legitimate family support that addresses the victim's needs, it does not automatically establish the personal accountability of either defendant. The judgment fails to clarify the specific contribution made by each defendant, particularly the second defendant, toward the restorative process. These findings demonstrate that the effectiveness of restorative justice should be assessed not merely in terms of compensation provided to the victim but also through the offenders' active participation and demonstrated willingness to assume responsibility for the consequences of their criminal conduct.

This study contributes to the development of more concrete normative parameters for implementing Supreme Court Regulation No. 1 of 2024 (PERMA No. 1/2024) in criminal proceedings. Nevertheless, its scope is limited by its reliance on a normative analysis of a single court decision, which does not capture the broader dynamics of judicial practice. Accordingly, judges should distinguish clearly between financial contributions made by defendants' family members and reparative actions undertaken by the defendants themselves. They should also establish a fair and proportionate legal basis when determining whether to impose a suspended sentence. Future research should examine a broader range of court decisions and actual courtroom practices to evaluate the consistency of judicial interpretations and the implementation of these restorative justice principles.

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