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## Restorative Justice as a Mechanism for Resolving Intra-Family Theft Offenses: A Legal Analysis of Reconciliation-Based Criminal Settlement in Indonesia

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### Abstract

Intra-family theft offenses present a distinct challenge in criminal law because the consequences of such offenses extend beyond material losses and affect trust, emotional relationships, and family stability. Unlike ordinary theft cases, offenses committed within family relationships require a careful balance between enforcing criminal responsibility and preserving social bonds. Although restorative justice has been increasingly recognized within the Indonesian criminal justice system, its application in intra-family theft cases remains insufficiently examined, particularly regarding its legal framework, implementation mechanism, and contribution to reconciliation. This study examines the role of restorative justice in resolving intra-family theft offenses through a reconciliation-based criminal settlement approach under Indonesian criminal law. This research employs normative juridical analysis using statutory, conceptual, and case approaches by examining relevant legal provisions, restorative justice regulations, and legal practices. The findings indicate that restorative justice provides an alternative settlement mechanism through voluntary mediation, offender accountability, restitution, and reconciliation between victims and offenders. The effectiveness of this approach is influenced by the willingness of offenders to acknowledge responsibility, the voluntary participation of victims, the restoration of losses, and the ability of mediators to facilitate balanced agreements. Restorative justice offers a more appropriate approach for intra-family theft offenses by integrating criminal accountability with social restoration, reducing unnecessary criminalization, and maintaining family relationships.

**Keywords:** Criminal Law, Restorative Justice, Reconciliation, Restitution, Victim Restoration

## 1. Introduction

The development of criminal justice systems has gradually shifted from a purely punitive approach toward a more balanced model that recognizes accountability, victim recovery, and social restoration (Purnomo et al., 2026). Traditional criminal justice mechanisms have primarily focused on determining guilt and imposing punishment on offenders (Saputra et al., 2024; Valentino, 2025). However, punishment alone does not always address the broader consequences of criminal acts, particularly when the parties involved maintain continuous social relationships (Purnomo et al., 2026; Dewa et al., 2025). This concern has contributed to the emergence of restorative justice as an alternative approach that seeks to resolve criminal disputes through dialogue, responsibility, and restoration between offenders and victims (Omowon & Samson, 2024).

Intra-family theft offenses represent a particular challenge within this changing criminal justice paradigm. Unlike ordinary theft cases involving unrelated individuals, theft committed within family relationships involves a combination of legal, emotional, and social dimensions. The harm experienced by victims is not limited to financial loss but may also involve the breakdown of trust, family conflict, and long-term relational consequences (Nascimento et al., 2022). At the same time, imposing formal criminal sanctions may create additional social consequences when the offender and victim remain connected through family relationships (Rochaeti et al., 2023). Therefore, resolving such cases requires an approach that balances criminal accountability with the possibility of repairing damaged relationships (Abdulovna, 2024).

Within the Indonesian criminal justice system, restorative justice has increasingly gained recognition as part of efforts to develop a more humane and effective criminal law policy (Sihombing et al., 2025). Various regulations and institutional policies have encouraged the resolution of certain criminal cases through mediation, reconciliation, and agreement between victims and offenders (Sikumbang & Sara, 2025; Sihombing et al., 2025). Nevertheless, the application of restorative justice requires careful consideration because criminal acts remain subject to public legal interests, and reconciliation should not eliminate the responsibility of offenders to acknowledge and repair the harm they have caused (Saputra et al., 2024).

The application of restorative justice in intra-family theft cases raises an important legal question regarding the extent to which reconciliation-based mechanisms can operate within criminal law (Sikumbang & Sara, 2025). While the preservation of family relationships may be desirable, the legal system must also ensure that victims receive appropriate protection and that offenders remain accountable for their actions (Azisa et al., 2025). The challenge lies in determining how restorative justice can function not merely as a means of avoiding criminal proceedings, but as a structured mechanism that restores harm while maintaining the principles of justice and legal responsibility (Omowon & Samson, 2024; Purwanto et al., 2025).

Previous studies have examined restorative justice in various criminal contexts, including juvenile offenses, minor crimes, and community-based dispute resolution (Askolani, 2024). These studies have demonstrated the potential of restorative approaches in reducing incarceration and improving victim satisfaction (Flora et al., 2025; Abdulovna, 2024; Gultom



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& Flora, 2022). However, limited attention has been given to the specific application of restorative justice in intra-family theft offenses, where criminal responsibility intersects with ongoing family relationships and emotional considerations. This gap highlights the need for further analysis regarding the legal framework, implementation process, and factors influencing the effectiveness of restorative justice in family-related theft cases (Azisa et al., 2025).

This article examines restorative justice as a reconciliation-based mechanism for resolving intra-family theft offenses within the framework of Indonesian criminal law. The analysis focuses on how restorative justice balances offender accountability, victim restoration, and the preservation of family relationships. By examining relevant legal provisions, restorative justice policies, and legal practices, this study seeks to provide a deeper understanding of the role of restorative justice in addressing criminal acts that occur within close family relationships.

## **2. Literature Review**

### **2.1 Restorative Justice as a Paradigm of Criminal Resolution**

Restorative justice represents a shift in criminal justice thinking from a punishment-oriented model toward an approach that emphasizes accountability, restoration, and reconciliation (Abdulovna, 2024; Askolani, 2024; Padlilah et al., 2023). Unlike the conventional criminal justice model, which primarily focuses on determining guilt and imposing sanctions, restorative justice views crime as an action that creates harm to individuals and social relationships (Nascimento et al., 2022; Padlilah et al., 2023). Therefore, the central question is not only how offenders should be punished, but also how the harm suffered by victims can be addressed and how damaged relationships can be repaired (Utami, 2023).

Howard Zehr explains that restorative justice places victims, offenders, and communities as active participants in resolving the consequences of crime. The offender is encouraged to acknowledge responsibility, understand the impact of their actions, and participate in repairing the harm caused (Halim & Ismoyo, 2023; Scholl & Townsend, 2023; Kirkwood, 2021). This approach does not eliminate accountability but seeks to establish a form of responsibility that is more meaningful than punishment alone (Van Willigenburg & Van Der Borgh, 2021; Padlilah et al., 2023).

The relevance of restorative justice becomes particularly apparent in cases where victims and offenders maintain continuing social relationships (Karimullah, 2023; Addun, 2025). In such circumstances, imprisonment or purely punitive measures may resolve the legal aspect of the offense but fail to address the social consequences that remain after the criminal process ends (Padlilah et al., 2023; Rasmussen, 2023). Restorative justice therefore provides a framework for balancing legal responsibility with social recovery (Suzuki, 2023; Klar-Chalamish & Peleg-Koriat, 2021).



# I J I S

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Vol. 2 Issue 3, July 2026, pp. 58-70

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## **2.2 Theft Within the Family**

Unlike ordinary theft, theft committed within the family possesses distinctive legal characteristics under Indonesian criminal law. Article 367 of the Criminal Code classifies certain family-related theft offenses as complaint-based offenses (*klacht delict*), meaning that criminal proceedings may only commence upon a complaint submitted by the injured party. The provision applies to theft committed among spouses under particular legal conditions and relatives connected through direct lineage or other legally recognized family relationships.

The rationale behind this legal arrangement is to recognize the unique nature of family relationships, where criminal prosecution may generate consequences extending beyond legal punishment. Formal criminal proceedings often intensify family conflict, create long-term psychological trauma, and weaken social cohesion within the household (Lubis, 2024). Therefore, the complaint-based nature of intra-family theft demonstrates legislative recognition that criminal law should accommodate opportunities for reconciliation whenever possible.

## **2.3 Restorative Justice within the Indonesian Criminal Justice System**

The Indonesian criminal justice system has increasingly institutionalized restorative justice as an alternative mechanism for resolving criminal cases. The implementation of restorative justice has been strengthened through several legal instruments regulating each stage of criminal proceedings.

At the investigation stage, the Regulation of the Indonesian National Police Number 8 of 2021 authorizes investigators to terminate criminal investigations when both formal and substantive requirements for restorative justice have been fulfilled, including voluntary reconciliation, restitution, absence of public unrest, and the offender's non-recidivist status (Kusworo et al., 2023). During prosecution, the Regulation of the Attorney General Number 15 of 2020 allows prosecutors to discontinue prosecution based on restorative justice, provided that the offender is a first-time offender, the offense carries a statutory maximum imprisonment of no more than five years, and the victim's losses have been adequately restored. Furthermore, the Supreme Court Regulation Number 1 of 2024 provides judicial guidelines for applying restorative justice during criminal adjudication.

These regulations demonstrate that restorative justice has evolved beyond a discretionary practice into an integral component of Indonesia's criminal justice policy, emphasizing proportionality, humanity, and social restoration alongside legal certainty.



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## **2.4 Restorative Justice within Indonesian Criminal Justice System**

In Indonesia, restorative justice has increasingly become part of criminal justice reform aimed at creating a more balanced and humane approach to criminal resolution. The recognition of restorative justice can be found through various institutional regulations that encourage law enforcement authorities to consider settlement mechanisms based on reconciliation, victim recovery, and offender accountability.

The implementation of restorative justice does not mean eliminating the criminal nature of an offense. Rather, it provides an alternative mechanism where legal responsibility may be fulfilled through processes that involve acknowledgment of wrongdoing, agreement between parties, compensation for losses, and restoration of social relationships. Therefore, restorative justice must be understood as a structured legal mechanism rather than merely an informal settlement process.

The application of restorative justice requires careful consideration, particularly regarding the interests of victims and the seriousness of criminal conduct. The success of restorative mechanisms depends on voluntary participation, equality between parties, genuine acknowledgment of responsibility, and the ability to achieve a fair resolution.

## **2.5 Intra-Family Theft Offenses and the Need for Reconciliation-Based Resolution**

Theft committed within family relationships presents a distinct legal and social dimension compared with ordinary property crimes. In addition to causing economic harm, such offenses may damage trust, emotional relationships, and family stability. The victim and offender are not merely parties involved in a criminal event but individuals connected through continuing personal relationships.

The application of conventional criminal procedures in such cases may create additional consequences, particularly when imprisonment or formal prosecution further damages family relationships that may still need to continue after the criminal process. However, restorative justice does not imply that family relationships should override legal accountability. Instead, it provides a mechanism through which offenders can be held responsible while allowing victims to obtain recognition, recovery, and participation in the resolution process.

Therefore, intra-family theft offenses represent an area where restorative justice may provide a more balanced approach by addressing both the legal consequences of crime and the social realities surrounding family relationships.

## **3. Research Methods**

This study employs a normative juridical research design using doctrinal and conceptual legal analysis to examine restorative justice as a reconciliation-based mechanism for resolving intra-family theft offenses within the Indonesian criminal justice system (Widjajanto et al.,

2025). Normative legal research was selected because the study primarily focuses on analysing legal norms, statutory provisions, legal principles, and doctrines governing restorative justice and family-related theft offenses (Zaenudin et al., 2025; Rahmawati, 2024).

The research applies three complementary approaches. The statutory approach is used to examine Indonesian legal instruments regulating restorative justice mechanisms, complaint-based criminal offenses, and the termination of criminal proceedings, including Law Number 1 of 2023 concerning the Indonesian Criminal Code, Police Regulation Number 8 of 2021, Attorney General Regulation Number 15 of 2020, and Supreme Court Regulation Number 1 of 2024 (Kamagi et al., 2025). The conceptual approach is employed to analyse theoretical foundations related to restorative justice, offender accountability, victim restoration, reconciliation, and criminal law policy (Hartono et al., 2022; Haliwela, 2023). The case approach is applied to examine relevant legal practices and decisions concerning the implementation of restorative justice in theft-related offenses, particularly those involving family relationships (Mansyur & Arafat, 2023).

The legal materials analysed in this study consist of primary, secondary, and tertiary legal sources (Yulifa et al., 2023). Primary legal materials include statutory regulations, judicial decisions, and institutional policies related to restorative justice and theft offenses (Laimu et al., 2024). Secondary legal materials consist of peer-reviewed journal articles, academic books, and legal commentaries discussing restorative justice, criminal settlement mechanisms, and victim-offender reconciliation (Zaenudin et al., 2025; Malik et al., 2024; Laimu et al., 2024). Tertiary legal materials include legal dictionaries and reference materials used to clarify legal concepts and terminology (Kamagi et al., 2025; Zaenudin et al., 2025; Laimu et al., 2024). The selection of legal materials was based on their relevance, legal authority, and contribution to understanding reconciliation-based criminal resolution (Widjajanto et al., 2025; Darmawan et al., 2021).

The collected legal materials were analysed qualitatively through juridical analytical methods involving systematic and conceptual interpretation (Hartono et al., 2022; Laimu et al., 2024). The analysis examined the relationship between statutory provisions, restorative justice principles, and practical implementation mechanisms (Malik et al., 2024). The findings were synthesized to evaluate whether restorative justice provides an appropriate legal framework for balancing offender accountability, victim protection, and the preservation of family relationships in intra-family theft cases

## **4. Results**

### **4.1 Implementation of Restorative Justice in Intra-Family Money Theft Cases**

The findings indicate that restorative justice has become an important alternative mechanism for resolving criminal offenses involving money theft within the family. Unlike conventional criminal proceedings that primarily emphasize punishment, restorative justice prioritizes restoring victims' losses, encouraging offenders to assume responsibility, and rebuilding damaged family relationships. This approach is

particularly relevant because theft committed among family members involves not only violations of property rights but also emotional and social relationships that may be permanently damaged through imprisonment.

The implementation of restorative justice is legally supported by Article 481 of Law Number 1 of 2023 concerning the Indonesian Criminal Code, which classifies theft within the family as a complaint-based offense. Consequently, criminal proceedings depend upon the victim's complaint and may be terminated when reconciliation has been achieved. In practice, the implementation generally involves voluntary mediation, acknowledgment of responsibility by the offender, negotiation of restitution, preparation of a written settlement agreement, and termination of criminal proceedings where all legal requirements have been fulfilled.

#### **4.2 The Impact of Restorative Justice on Family Relationship Restoration**

The study demonstrates that restorative justice contributes significantly to restoring family relationships following incidents of money theft. The mediation process provides opportunities for victims and offenders to communicate directly regarding the consequences of the offense, thereby fostering empathy and mutual understanding. Victims receive recognition of their emotional and financial losses, while offenders are encouraged to acknowledge responsibility and demonstrate genuine remorse.

Beyond emotional recovery, restorative justice also facilitates financial restoration through restitution agreements. Unlike imprisonment, which rarely compensates victims for economic losses, restorative justice emphasizes repayment of stolen money or other forms of compensation agreed upon by both parties. Consequently, the resolution addresses both material and psychological aspects of the conflict while reducing the likelihood of long-term family estrangement.

#### **4.3 Factors Influencing the Success of Restorative Justice**

The effectiveness of restorative justice depends upon several interrelated factors. The first is the offender's willingness to admit wrongdoing and fulfill agreed obligations. Genuine accountability represents the foundation for rebuilding trust within the family.

The second factor concerns the victim's voluntary willingness to participate in reconciliation. Because family theft constitutes a complaint-based offense, victims retain discretion to continue or withdraw criminal proceedings. Therefore, successful restorative justice requires the victim's confidence that the agreement adequately restores both material and emotional losses. Third, identifying the underlying causes of the offense is essential for preventing recidivism. Financial hardship, gambling addiction, online lending debt, unemployment, and substance abuse frequently contribute to family-related theft. Addressing these underlying problems through counselling, supervision, or rehabilitation substantially increases the likelihood of long-term behavioral change.

The competence and neutrality of mediators play a decisive role in ensuring fair negotiations. Effective mediators facilitate balanced communication, prevent coercion, and assist the parties in developing realistic restitution agreements capable of practical implementation.

#### **4.4 Legal Implications and Challenges of Restorative Justice**

The findings demonstrate that restorative justice reflects a significant transformation in Indonesian criminal justice policy from a punishment-oriented system toward one emphasizing restoration and reconciliation. This development is consistent with Howard Zehr's Restorative Justice Theory, which regards crime as harm inflicted upon human relationships rather than merely a violation of legal norms (Sutanti et al., 2025). Likewise, the doctrine of *ultimum remedium* supports the use of criminal sanctions only after less harmful alternatives have proven ineffective, particularly in disputes involving close family relationships.

The practical implementation of restorative justice can be observed in the theft case handled by the Kedawung Police, where investigators facilitated mediation after both parties requested peaceful settlement. The offenders acknowledged responsibility, compensation was secured through the transfer of property as collateral, and the victim subsequently withdrew the complaint, allowing investigators to terminate the criminal investigation in accordance with Police Regulation Number 8 of 2021. This case illustrates that restorative justice can provide legal certainty while simultaneously protecting victims' interests and preserving social harmony.

Several challenges remain. Differences in interpretation among law enforcement officers, unequal bargaining positions within families, limited public awareness, and the absence of standardized mediation procedures may affect the consistency of restorative justice implementation. Therefore, strengthening institutional guidelines, improving mediator competence, and increasing public legal awareness are necessary to ensure that restorative justice is implemented consistently while safeguarding the principles of justice, legal certainty, and legal utility.

### **5. Conclusion**

This study demonstrates that restorative justice represents a legally appropriate alternative mechanism for resolving intra-family theft offenses within the Indonesian criminal justice system. The analysis indicates that reconciliation-based settlement provides a framework for balancing criminal accountability, victim recovery, restitution, and the preservation of family relationships. Rather than eliminating criminal responsibility, restorative justice emphasizes the offender's acknowledgment of wrongdoing, the restoration of harm, and the active participation of victims in the resolution process.

The study contributes to the restorative justice discourse by highlighting the distinctive nature of intra-family theft cases, where criminal violations occur within ongoing personal relationships. In such circumstances, the application of criminal law requires a contextual approach that considers not only the violation of legal norms but also the social and emotional consequences experienced by the parties involved. The implementation of restorative justice, however, requires careful safeguards to ensure voluntary participation, protection of victims' interests, equality between parties, and the avoidance of coercive reconciliation.

The findings suggest that strengthening restorative justice within Indonesia's criminal justice policy requires improved institutional consistency, enhanced mediator capacity, and clearer implementation guidelines. Future research should further examine the empirical dimensions of restorative justice in intra-family theft cases by exploring the experiences of victims, offenders, mediators, and law enforcement authorities to provide a more comprehensive understanding of its practical implementation and limitations.

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