

RESTORATIVE JUSTICE APPROACH IN CRIMINAL CASE SETTLEMENT AT CIREBON POLICE: EFFORTS TO REALIZE LEGAL CERTAINTY AND JUSTICE

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Abstract

This study is motivated by the development of the restorative justice approach in resolving criminal cases, particularly embezzlement cases, at the investigative stage. The restorative justice approach is viewed as an alternative method of case resolution that focuses not only on punishing the perpetrator but also on compensating the victim and directly resolving the conflict between the parties. The research question in this study is how restorative justice is applied and legally protected during the investigative stage in embezzlement cases at the Cirebon City Police Department. The research method used is normative legal research, employing a statutory and case study approach. Data were obtained through a literature review, interviews, and documentation, and were analyzed qualitatively. The results of the study indicate that restorative justice is implemented through a mediation process between the perpetrator and the victim, taking into account relevant conditions. In the case studied, the perpetrator returned the victim's car as a form of restitution, thereby resolving the case without proceeding to formal criminal court proceedings. The application of restorative justice is considered quite effective because it resolves conflicts directly, provides redress to victims, and serves as an increasingly simple and efficient alternative method for handling cases. It can be concluded that the application of restorative justice in embezzlement cases during the investigation stage can serve as an effective case resolution approach grounded in the principle of restitution; however, its implementation must still adhere to applicable legal provisions to ensure that the objectives of justice and legal certainty are maintained in a balanced manner.

Keywords: *restorative justice, investigation, embezzlement, legal certainty, justice*

I. INTRODUCTION

In practice, Indonesia's criminal law system is usually more focused on legal certainty, but this approach often conflicts with the principle of justice. This shows that the balance between legal certainty and justice is still an important issue in the application of the law. In this context, the law is considered a strict, formal, and binding tool, so law enforcers are expected to act in accordance with prevailing provisions without disregarding personal or social judgment. This approach often fails to provide true justice.¹

The conflict between legal certainty and justice is increasingly evident in the practice of handling criminal cases, especially at the police investigation stage. Legal certainty requires consistency and uniformity in the application of rules, while justice requires the law's elasticity and ability to respond to the real circumstances of the parties involved. Various kinds of criminal cases, the application of the law that focuses too much on formal aspects, actually creates injustice for the victim, the perpetrator, and society as a whole. The law becomes only a tool of oppression, not a means to recovery.

This reality is evident in the case of the embezzlement of a car, handled by the Cirebon Police. This incident occurred on Thursday, February 26, 2026, at around 09.00 WIB at a tofu factory in Beber Village, Beber District, Cirebon Regency. The complainant, with the initials IKA, as the business owner, reported that his employee, with the initials EY, had used a company-owned pickup truck to deliver the product to customers. However, after the vehicle was brought in and the delivery of tofu was completed, the perpetrator did not return it as required, thus raising strong suspicions of embezzlement.

Legally, the act clearly meets the elements of a criminal act as set out in the provisions of the new criminal law, Article 486 of the Criminal Code, so normatively, it is mandatory to be processed by the criminal court. In this case, the principle of legal certainty requires that the perpetrator be brought to justice through the established legal process, without regard to factors outside those norms.²

¹ Ismayana, 'Implementation of Children's Rights in the Examination Process in the Source District Court', *Scientific Journal of the World of Law*, 5.2528–6137 (2021), 71.

² Mario Julyano and Aditya Yuli Sulistyawan, 'Understanding The Principle Of Legal Certainty Through The Construction Of Legal Positivism Reasoning', *Crepido Journal*, 01 (2019), 13–22. <<https://ejournal2.undip.ac.id/index.php/crepido/>>.

This means that the law must be applied as it is, without compromise. However, the problem became more complicated when, during the handling process, the perpetrator was successfully found and arrested by the police in the Tegal area, along with evidence, and a new dynamic emerged: a peace agreement between the victim and the perpetrator.

The victim who initially reported the incident decided to withdraw his report after the perpetrator admitted to the mistake, returned the lost items, and showed good intentions to take responsibility. In this situation, if the case is still forwarded to the legal process, then, in terms of formality, legal certainty will indeed be fulfilled. However, these actions risk overlooking the dimension of justice that has actually been realized through the restoration of the relationship between victims and perpetrators. In fact, the imposition of legal channels under such conditions can lead to new injustices, such as excessive criminalization, social stigma against perpetrators, and ineffective social conflict resolution.³

Here, the main issue in criminal law is very clear: a fundamental dilemma exists, namely, between maintaining strict legal certainty and pursuing more in-depth justice. Legal certainty without justice can be oppressive, while justice unsupported by legal certainty can lead to confusion and inadequacy. Therefore, a way is needed that can unite these two values in a balanced way.

The restorative justice approach is present as a response to these tensions.⁴ In this case, restorative justice is the chosen problem-solving mechanism, in which the victim and the perpetrator can reach a peace agreement, the losses have been recovered through the return of the vehicle, and the perpetrator is not a recidivist, and the criminal threat is under five years.⁵ Based on these considerations, the Cirebon Police, through the applicable mechanism, conducts a case to be able to decide whether the case can be stopped through a restorative justice approach or not.

³ Waluyadi Waluyadi, 'Protection Of Victims Of Crime In The Judicial Process', 2.1 (2021), 153–55.

⁴ Ismail Marzuki, 'Criminal Law Enforcement Through A Restorative Justice Approach To Realize The Value Of Substantive Justice', *Maksigama*, 18.2 (2024).

⁵ Teuku Rahman, 'Restorative Justice as an Approach to Solving Criminal Cases by the Indonesian Prosecutor's Office', *The Prosecutor Law Review*, 1.3 (2023), 26–46 <<https://doi.org/10.64843/prolev.v1i3.23>>.

This decision shows that restorative justice is not just an option for resolving cases but also helps reduce rigidity in criminal law. Restorative justice shifts the paradigm from punishment to restoration by prioritizing the interests of the victim, the responsibility of the perpetrator, and social harmony.

Therefore, this case deserves further study because it illustrates the relationship between the principles of justice and legal certainty in criminal justice practice. This study is important for examining how restorative justice is applied at the investigative stage and the extent to which it is effective in striking a balance between the two fundamental values, without sacrificing the basic principles of law enforcement.

II. LITERATURE REVIEW

Restorative Justice Theory

In criminal law, restorative justice can be understood as a paradigm that prioritizes the recovery of victims' losses, the resolution of conflicts between perpetrators and victims, and the creation of a peaceful agreement, without always being oriented towards punishing perpetrators through formal criminal justice, focusing not solely on retribution. In contrast to the conventional approach that positions the criminal act as a violation against the state, restorative justice views that every criminal act is a conflict between individuals that can cause real losses, so that these losses need to be recovered.⁶ The application of restorative justice in Indonesia has been regulated in Article 1, Number 21 of Law Number 20 of 2025 concerning Restorative Justice. Conceptually, restorative justice has three main elements: the perpetrator, who must be held responsible for his actions; the victims, who are entitled to recovery; and the community, which is affected and needs to restore its social harmony.

The results of the study show a relationship between the application of restorative justice and the settlement of embezzlement cases, as stipulated in Article 468 of Law Number 1 of 2023 concerning the Criminal Code (KUHP). This approach emphasizes certain conditions, such as dialogue, deliberation, and agreement, as a mechanism for resolving cases. In the context of policing, restorative justice is achieved through penal mediation, the termination of investigations, and peaceful agreements between the parties.

⁶ Mirza Sahputra, 'Restorative Justice Restorative Justice As a Progressive Law in the Regulation of Indonesia', *Journal of Media Administration Transformation Policy Development and Government Management*, 12.1 (2022), 87–96 <<https://jta.lan.go.id/index.php/jta/article/view/205>>.

However, it is necessary to understand that restorative justice is not without weaknesses. Its application is largely determined by the discretion of law enforcement officials, so it has the potential to lead to inconsistencies and even abuse of authority if not strictly regulated. That is why restorative justice is more useful as a tool to soften the strictness of traditional criminal law than as a replacement. From the description above, the author argues that the application of restorative justice in embezzlement cases can serve as an alternative to case resolution that prioritizes the recovery of victims' losses and the direct resolution of conflicts between perpetrators and victims. However, its application must still be carried out, selectively guided by applicable legal regulations, to avoid inconsistencies in investigative practices.

Legal Certainty Theory

In the legal system, the application of the principle of legal certainty must be carried out with precision, clarity, and consistency. In this case, the law should be written, predictable, and applied fairly to all citizens. Legal certainty can be seen from the principle of legality (*nullum crimen sine lege, nulla poena sine lege*), which shows that no action can be punished without clear rules. Thus, the consequences of every criminal act that meets the legal requirements must be processed through existing legal procedures.⁷ On the other hand, in practice, the law is often a rigid formality, not taking into account the social and economic conditions faced by the parties involved. Such a verdict that may be legally valid can be considered socially unfair if the law is applied literally in certain cases. Legal certainty must be interpreted not only as the certainty of norms, but also as certainty to be able to achieve a legal goal itself, namely justice and usefulness for the public.⁸ Based on this description, the author argues that the application in the case must still pay attention to the aspect of legal certainty so that the goals of law enforcement can be achieved in a balanced manner. Therefore, this implementation must adhere to applicable legal provisions to continue providing justice and legal certainty for the community.

⁷ Criminal Law and others, 'Principles Nullum Crimen Sine Poena On The Draft Criminal Code', *Journal of Criminal Law & Criminology*, 2.1 (2021), 1–6.

⁸ Suwardi Sagama, 'Analysis of the Concept of Justice, Legal Certainty and Utility in Environmental Management', *Mazahib*, 15.1 (2016), 20–41. <<https://doi.org/10.21093/mj.v15i1.590>>.

Justice Theory

Justice is the main goal in law, although in practice it is not always in harmony with the formal application of the law. This gave birth to the concepts of formal justice and substantive justice.⁹ Formal justice emphasizes the application of rules equally to everyone, while substantive justice emphasizes on fair final outcomes based on concrete conditions.¹⁰

In the practice of criminal justice, there is often tension between the two forms of justice. Formal application of the law does not necessarily result in substantive justice, especially in cases involving personal relationships, minor losses, or social conflicts that can actually be resolved peacefully.

This is where restorative justice takes an important role as an approach that emphasizes more substantive justice¹¹, namely by restoring relationships, restoring losses, and avoiding the negative impacts of disproportionate punishment.

All three theories point to conceptual tensions: Legal certainty → demand consistent enforcement of the rules; Justice → demands flexibility and alignment in concrete conditions; Restorative justice → be a bridge between the two. Therefore, restorative justice can be understood as a mechanism of approach aimed at maintaining legal certainty without sacrificing substantive justice.

Based on this description, the application in embezzlement cases reflects a form of substantive justice because it is not only directed at the punishment of the perpetrator, but also efforts to restore the rights of the victim and create a balance of interests between the perpetrator and the victim. In addition to reflecting substantive justice, the application must continue to pay attention to two aspects: legal certainty and justice in the practice of investigation.

⁹ B A B II, A Theory of Justice, and Understanding of Justice, M. Agus Santoso, Law, Morality & Justice: A Study of Legal Philosophy, Ctk. Second, Kencana, Jakarta, 2014, pp. 85. 16 20', 20–48.

¹⁰ ii, Justice, and Justice.

¹¹ Femi Zulfa Nurkheliza, Heni Siswanto, and Dona Raisa Monica, 'Restorative Justice Approach by the Prosecutor's Office in Solving Criminal Cases of Child Abuse in Restorative Justice Houses', *Presidential: Journal of Law, State Administration, and Public Policy*, 2.4 (2025), 328– 40 <<https://doi.org/10.62383/presidensial.v2i4.1431>>.

Therefore, the author argues that, in the application of restorative justice, supervision by the investigator's supervisor is needed to ensure that the case settlement process continues to run in accordance with applicable laws and regulations and to prevent abuse of authority in the practice of investigation. With this supervision, it is very important to ensure that the peace agreement reached by investigators, victims, and perpetrators is truly voluntary, without any pressure on the victim or other parties. However, its application must still be based on applicable laws and regulations to ensure justice and legal certainty in a balanced manner.

Previous Research

The results of previous research have shown that, in practice, the criminal justice system has significant consequences, both theoretically and practically.

- First, research shows that restorative justice is able to reduce the burden of cases in judicial institutions and overcome the problem of overcrowding in correctional institutions. This shows that the restorative approach has high utility in the criminal justice system.
- Second, another study revealed that victims in cases resolved through restorative justice tend to feel more satisfied than in the conventional justice process, because of the space for dialogue and direct recovery.

On the other hand, research highlights the weaknesses of restorative justice, particularly the potential for abuse of discretion by law enforcement officials, the lack of clear standards, and the possibility of "pseudo-peace" under certain pressures. According to previous research, restorative justice has great potential to realize justice, but it still requires strict regulation and supervision to avoid undermining the principle of legal certainty.

II. RESEARCH METHODS

Types of Research

The type of research used is normative legal research, which focuses on analyzing legal norms derived from laws and regulations, doctrines, and rulings relevant to the object of research.¹² The Gospel of Jesus Christ

Research Approach

This research uses several approaches, namely:

- The Statute Approach is used to examine various regulations that regulate restorative

justice, such as the Criminal Code, the Criminal Code, and internal police regulations.

- The Conceptual Approach is used to examine various legal concepts such as legal certainty, justice, and restorative justice.

Source of Legal Materials

The legal materials used in this study consist of three types, namely:

Primary Legal Material

- Criminal Code (KUHP) Article 486 of Law Number 01 of 2023 concerning the Crime of Embezzlement
- Criminal Procedure Code (KUHAP)
Article 1 number 21 of Law Number 20 of 2025 concerning Restorative Justice, article 7 Paragraph (1) letters j and k, article 24 paragraph (2) letter h and Article 79 paragraph (5), Article 80, Article 81, Article 82, article 83
paragraph (4) and Article 84, Article 134, Article 140 paragraph (13), Article 361
Law Number 20 of 2025¹³
- Law No. 2 of 2002 concerning the National Police of the Republic of Indonesia

Secondary Legal Materials, Law

Books, Scientific Articles

Tertiary Legal Materials Legal

Encyclopedia

In addition to these legal materials, this study uses criminal case-handling documents obtained from police institutions, including police reports, peace agreement letters, and case termination documents. The document is used as analytical material to support discussions on the application of restorative justice.

However, the document cannot be presented publicly in this writing to maintain data confidentiality and uphold research ethics, in accordance with the statements agreed with the relevant parties.

¹² M.Hum Dr. H. Muhaimin., SH., 'LEGAL RESEARCH METHODS', 2020, p. 45.

¹³ Government of Indonesia, 'Criminal Procedure Code (KUHAP) No. 8 of 1981', *Kuhap*, 1981, 871.

III. RESEARCH RESULTS

Application of the Restorative Justice Approach in Solving Embezzlement Cases at the Cirebon Police

Based on data obtained from the Cirebon Police, the settlement of embezzlement cases is carried out through a restorative justice approach carried out at the investigation stage, accompanied by mediation between the perpetrator and the victim. The case began when the perpetrator took control of the victim's car, which was previously under the perpetrator's control, on the basis of a relationship of trust. However, during its development, the car was not returned to the victim as agreed, resulting in the victim incurring material losses and reporting the incident to the police.

After the case report was received, investigators immediately took steps to obtain and collect the necessary evidence to uncover the criminal act. In the investigative process, this investigator can not only focus on proving the elements of embezzlement but also consider opportunities to resolve cases through a restorative justice approach. This approach is applied while still being guided by the provisions stipulated in the Criminal Code (KUHP) in Article 486 of Law Number 01 of 2023 concerning the Crime of Embezzlement.

The implementation of this approach can only be carried out if it meets the general requirements and specific requirements that have been determined. These conditions include criminal acts that do not trigger social unrest or public rejection, criminal threats of less than 5 years that do not cause social conflicts, a peace agreement between the parties, the perpetrator is willing to take responsibility for the actions that have been committed, and the restoration of the victim's rights. In addition, cases resolved through restorative justice are not considered serious criminal acts, so peace can still be achieved between the parties.¹⁴ The Gospel of Jesus Christ

In the case under investigation, these conditions have been met because the perpetrator can demonstrate good faith by agreeing to return the victim's car as a form of accountability for the crime of embezzlement. In addition, the victim expressed his willingness to resolve the case through peace after the losses he suffered

¹⁴ Dewa Putu Hendra Widiatmika, 'The Implementation of Perpol Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice at the Directorate of General Criminal Investigation of the Bali Police', *IJOLARES : Indonesian Journal of Law Research*, 1.1 (2023), 1–5. <<https://doi.org/10.60153/ijolares.v1i1.1>>.

restored. Furthermore, investigators facilitated mediation by bringing together perpetrators and victims as part of implementing restorative justice.¹⁵ According to Cleiren, at the core of embezzlement is an abuse of trust in another trusted person, in which a person unlawfully takes possession of goods previously entrusted to him.¹⁶ Based on the results of interviews with investigators at the Cirebon Police, the application of restorative justice in this embezzlement case does not always go easily because its success depends heavily on the willingness of the perpetrator and the victim to achieve peace. In addition, investigators must ensure that the resolved case meets the requirements of applicable laws and regulations.

In practice, the mediation process also requires communication and understanding between the parties so that a peace agreement can be reached voluntarily, without coercion. Therefore, investigators play an important role in facilitating the mediation process so that case resolution through restorative justice can proceed effectively while remaining guided by applicable legal provisions.¹⁷ In mediation, investigators play a role in helping the parties to achieve a settlement of the case through deliberation and a peaceful agreement. Through this process, the perpetrator expressed his willingness to take responsibility and compensate the victim for the losses by returning the car previously seized in connection with the embezzlement. Furthermore, the victim expressed his willingness to resolve the case through peaceful means so that it would not need to proceed through the criminal justice process. This criminal act of embezzlement can be attributed to the latest provisions of Law number 1 of 2023 concerning the Criminal Code. The provisions on the crime of embezzlement in Article 486 of the Criminal Code state that any person who unlawfully controls the property of another person, in whole or in part, while in his possession, not because of a criminal act, may be criminally charged with embezzlement.¹⁸ Based on the results of the study, the application of restorative justice in embezzlement cases indicates that the settlement of criminal cases does not always lead to punishment through the formal judicial process.

¹⁵ Attorney General's Office of the Republic and Indonesia Year, 'Attorney General of the Republic of Indonesia', 18 (2013), 1–8.

¹⁶ Bintang Pasaribu, Rr. Ani Wijayati, and Poltak Siringoringo, 'Juridical Analysis of the Crime of Embezzlement in Companies', *Tora Law Journal*, 10 (2024), 320–30.

¹⁷ ELMA YANTI, 'The Concept of Restorative Justice through Penal Mediation in the Settlement of Minor Criminal Cases in the Indigenous People of Kuala Gasib Village in Koto Gasib District, Siak Regency', *Das Solden Legal Journal*, 1.4 (2018), 1–29
<<https://doi.org/10.32520/das-sollen.v1i4.333>>.

¹⁸ President of the Republic of Indonesia, 'Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code', *Main Directorate of Development and Development of State Financial Audit Law*, Financial Audit Agency, 2023, 1–345

The settlement of the case is carried out by prioritizing the recovery of the victim's losses and the resolution of the conflict directly between the perpetrator and the victim.¹⁹ This condition is in line with the theory of restorative justice, which emphasizes that the settlement of criminal cases is not only aimed at imposing a criminal sentence on the perpetrator, but to be able to recover the losses experienced by the victim and improve social relations that are disturbed by the occurrence of an act.²⁰ In the case under investigation, the victim has regained his rights through the return of the car by the perpetrator, while the perpetrator has been given the opportunity to be able to account for his actions through a peace agreement without having to go through a lengthy criminal justice process.

From a justice perspective, the application in this embezzlement case can reflect a form of substantive justice because the settlement of this case is not solely a punishment of the perpetrator but also addresses the restoration of the victim's rights and the balance of interests between the perpetrator and the victim. The victim received real recovery through the return of the car, while the perpetrator was given the opportunity to be directly responsible for his actions.

Therefore, from the perspective of legal certainty, restorative justice still relies on clear limits and guidelines to avoid inconsistencies in investigative practices. This is because the application of restorative justice still depends on the discretion of investigators, who must assess whether a case meets the requirements for resolution through this approach.²¹ Therefore, it must be carried out guided by the terms and conditions that have been stipulated in Article 1, number 21 of Law Number 20 of 2025, so that the settlement of cases needs to be based on the principles of justice, utility, and legal certainty in a nutshell.

¹⁹ Gemilang Perdana Ginting, Azhali Siregar, and Rahul Ardian Fikri, 'The Application of Restorative Justice in the Criminal Justice System in Indonesia', *Locus Journal of Academic Literature Review*, 2.12 (2025), 2767–72 <<https://doi.org/10.62335/aksioma.v2i12.2121>>.

²⁰ Henny Saida Flora, 'Restorative Justice as a Means of Reforming the Criminal Justice System', *Journal of Legal Profiling*, 5.1 (2025), 4742–50 <<https://ejournal.ust.ac.id/index.php/JPH/article/view/5171>>.

²¹ River Hutajulu, Alwan Hadiyanto, and Ciptono Ciptono, 'Restorative Justice and Police Discretion in the Indonesian Criminal Justice System Restorative Justice and Police Discretion in the Indonesian Criminal Justice System A Trial for Fifteen Months Accompanied by Very Large Fines, Although M', 9.2 (2026), 975–96.

Based on the results of the description, the author argues that the application of restorative justice in embezzlement cases at the investigation stage can be a form of case resolution that is more humane and prioritizes recovery compared to an approach that only focuses on punishing the perpetrators, and still refers to the applicable legal provisions so that the goals of law enforcement efforts in the criminal justice system can still be achieved.

Legal Protection for Victims in Embezzlement Crimes through Restorative Justice

One of the things that needs to be considered in the settlement of criminal cases is legal protection for victims, including in criminal acts embezzlement²². Basically, embezzlement cases, as stipulated in Article 486 of Law Number 1 of 2023 concerning the Criminal Code, are an act that is contrary to the law that can result in losses for the victim due to the possession of other people's property carried out on the basis of a relationship of trust²³. Therefore, victims, as parties aggrieved by the crime of embezzlement, must obtain legal protection and the restoration of their rights in the process of resolving criminal cases.

In the case under investigation, the crime of embezzlement began when the victim delivered tofu to all factory customers using his car. After all delivery activities were completed, the car was then in the control of the perpetrator. However, after the delivery activity was completed, the perpetrator did not return the victim's car as he should have, resulting in the victim suffering losses due to losing control of his car.

As a result of this act, the victim felt harmed both materially and psychologically because his car was not returned by the perpetrator. In addition to suffering material losses, the victim experienced a loss of trust in the perpetrator because the embezzlement was committed on the basis of a relationship of trust between them. At first, the victim tried to resolve the issue amicably by asking the perpetrator to return his car, but the perpetrator did not do so immediately, so the victim then reported him to the police.

In the process of resolving the case, a restorative justice approach is implemented through mediation between the parties, with the aim of achieving a peaceful resolution of the conflict and recovering the losses suffered by the victim due to the crime of embezzlement.

²² Nita Yuniati, 'Legal Protection for Victims of Crime', *Journal of Law, Humanities and Politics*, 4.6 (2024), 2419–29 <<https://doi.org/10.38035/jihhp.v4i6.2518>>.

²³ House of Representatives, 'Criminal Code (KUHP)', *Pkbh.Uad.Ac.Id*, 2023, 138.

Settlement of cases through this approach is not only aimed at achieving peace but must also provide legal protection to victims, as parties who suffer losses due to the crime of embezzlement ²⁴.

The legal protection of victims in embezzlement cases through restorative justice can be seen from the restoration of victims' rights through the return of the victim's car by the perpetrator as a form of responsibility for the crime of embezzlement committed ²⁵. Return of the car²⁵ Syarif Fadillah Fauzi Widy Pratama, Nurwidiatmo, 'The Application Of Restorative Justice To The Crime Of Embezzlement At The Prosecution Level (Study On The Termination Of Prosecution To The Pariaman Prosecutor's Office Number: 2524/1.3.13/Eoh. 2/9/2020) ', and the Head Of The Prosecutor's Office. It is a tangible means of recovering the victim's losses because the victim regains his property rights that were previously under the perpetrator's control. With the return of the car, the victim not only obtained a peaceful settlement of the case but also regained rights previously lost due to the perpetrator's embezzlement.

In addition to the recovery of victims' losses, legal protection for victims can also be seen in the opportunity given to victims to express their opinions and to determine the form of settlement of cases that is considered to provide a sense of justice for them. In the mediation process, the victim is given the opportunity to explain the losses he has suffered due to the crime of embezzlement and is free to determine whether a restorative justice approach to settling the case truly provides a sense of justice for him ²⁶. This means that the victim is not only positioned as the aggrieved party but also as the party with the right to determine whether the settlement of this case has provided him with a sense of justice.

²⁴ Indra Gunawan Purba and others, 'Criminal Justice Settlement Through Restorative Justice Instruments To Realize The Legal Goals Of Beneficial Justice', 2025, 448–50.

²⁵ Syarif Fadillah Fauzi Widy Pratama, Nurwidiatmo, 'Penerapan Restoratif Justice Pada Tindak Pidana Penggelapan Di Tingkat Penuntutan (Studi Penghentian Penuntutan Kepada Kejaksaan Pariaman Nomor: 2524/1.3.13/Eoh.2/9/2020) Dan Kepala Kejaksaan Negeri Banjarmasin Number: PRINT-238/0.3/10/EON.1/09/2020)', *Journal of the Bachelor of Law Program*, 5.2 (2023), 157–60.

²⁶ Penias Isba, Marius Suprianto Sakmaf, and Jumiran, 'Evaluation of the Application of Restorative Justice in Criminal Conflict Resolution: Victim and Perpetrator Perspective', *Delictum: Journal of Criminal Law and Islamic Criminal Law*, 3.1 (2024), 14–30. <https://ejurnal.iainpare.ac.id/index.php/delictum/index%0AEvaluasi>>.

In the case under investigation, the perpetrator admitted his mistake and apologized to the victim for his actions. The victim then accepted the apology sincerely after the perpetrator showed good faith by returning the victim's car. In addition, the victim voluntarily agreed to settle the case through a restorative justice approach, without pressure or coercion from any party. This shows that legal protection for victims is not solely related to the recovery of material losses, but also to victims' freedom to determine the form of settlement that provides them with a sense of justice.

The victim's voluntary acceptance of an apology shows that the application of restorative justice in the criminal case of embezzlement not only resolves the legal aspects formally but also seeks to restore the relationship between the perpetrator and the victim who previously experienced conflict due to the embezzlement. In this case, the victim chose to settle the case through peace after the perpetrator showed responsibility and good faith towards the victim. By paying attention to this, the settlement of cases through a restorative justice approach not only punishes perpetrators but also prioritizes the peaceful resolution of conflicts and the re-establishment of good relations.

Legal protection for victims of embezzlement through restorative justice is also related to the victim's position in the settlement of the case. In this approach, the victim is not only positioned as the party who suffers a loss but also as a party involved in determining the settlement of the case. Therefore, the victim's willingness to accept peace can be an important factor in applying the principle of restorative justice.

Regarding the case under investigation, the victim accepted an apology from the perpetrator's apology and agreed to settle the case through peace, as he had regained his car as a form of recovery for his losses. This condition indicates that the victim prioritizes the restoration of rights and the restitution of losses over the punishment of the perpetrator through formal criminal justice. Thus, handling cases through restorative justice can bring direct benefits to victims by allowing them to regain their property rights without the need to go through a lengthy criminal justice process.

From the perspective of legal protection for victims, the restorative justice approach provides space for victims to gain a sense of security and certainty, and to support their recovery from the losses they have suffered due to embezzlement. The victim not only regains his property rights in material terms but also has the opportunity to resolve the conflict directly with the perpetrator through a voluntary peace process. Thus, victims receive legal protection both in recovering losses and in exercising their right to determine the form of settlement that

provides a sense of justice for them.

In addition, legal protection for victims in the application of restorative justice is evident in the certainty that victims are not forced to accept peace. Legal protection for victims cannot be said to be fulfilled if the victim is forced to accept a settlement of the case through peace without a voluntary agreement. Therefore, in the application of restorative justice, victims must still be given the freedom to determine whether the settlement of cases through peace really provides a sense of justice for them or not.

In the crime of embezzlement, basically the victim is the party who is most harmed by the perpetrator's actions. Therefore, legal protection for victims must be the main concern in resolving cases through a restorative justice approach. The settlement of this case must not only take into account the interests of the perpetrator but also provide the restoration of rights and a sense of justice for the victim, as the party who suffered losses in the case.

From a justice perspective, the application of restorative justice in embezzlement reflects substantive justice because the victim regains his rights through the perpetrator's return of the car, while the perpetrator is given the opportunity to account for his actions directly through an apology and a peace agreement between the parties. The settlement of the case shows that justice does not always have to be realized through the punishment of the perpetrator, but can also be realized through the restoration of victims' rights and the peaceful resolution of conflicts between perpetrators and victims.

In addition to providing recovery for the victim, the approach also offers the perpetrator an opportunity to correct his mistakes to the victim through the return of the car and an apology. Thus, case resolution through a restorative approach not only addresses criminal cases formally but also fosters more effective conflict resolution that focuses on peace and the restoration of social relations between the parties.

However, in implementing restorative justice, attention is still needed to the legal protection of victims so that the peace process is truly carried out voluntarily, without any pressure or coercion on the victim. Legal protection for victims cannot be said to be fulfilled if the victim is forced to accept a settlement of the case through peace without an agreement made freely and voluntarily. Therefore, the victim must still be given the freedom to determine whether the settlement of the case through restorative justice can truly provide him with a sense of justice.

Based on the results of the description, legal protection for victims of embezzlement through restorative justice can be realized if the case settlement process really prioritizes the

restoration of the victim's rights, with the responsibility of the perpetrator for the crime committed, and the existence of a peace agreement that is made voluntarily at the will of the parties without pressure from any party. Based on this, the settlement of embezzlement through restorative justice is not only aimed at resolving cases peacefully but also at providing legal protection, restoring rights, and a sense of justice for victims as parties aggrieved by these acts.

IV. DISCUSSION

Based on the study's overall results, the implementation of restorative justice during the investigation stage indicates that not every criminal case must be resolved through trial. Even though the perpetrator's actions have satisfied the elements of Article 468 of the Criminal Code, settlement through mediation, until a peace agreement is reached, and recovery of damages can demonstrate that the conflict has been resolved in real terms between the parties. In conditions like these, the restorative justice approach becomes more relevant because it can solve problems directly, not just formally.²⁷

The application of restorative justice also cannot be done freely. But it can only be applied to certain criminal acts, criminal acts that are threatened with a sentence of less than 5 years, are not serious, do not have a wide impact, and there is an agreement between the perpetrator and the victim. Restrictions. This is important so that restorative justice is not used carelessly and remains within a clear legal framework.

In terms of effectiveness, restorative justice has proven more appropriate for cases that are not serious. Settlement can be done faster, and the victim's losses can be recovered immediately. However, this effectiveness does not apply to all cases. If applied to inappropriate cases, it can actually cause new problems in law enforcement.

On the other hand, the implementation of restorative justice still has challenges. Dependence on the discretion of the investigator. Which, this can cause differences in handling similar cases. This can cause legal uncertainty if not clearly regulated. Therefore, restorative justice needs to be carried out selectively and still supervised so as not to deviate from the principles of criminal law

²⁷ Accel Aldy Steve Pola Butje Tampi and Harly S. Muaja, 'Delicitation Of Embezzlement By A Person To Whom He Is Forced To Entrust Goods According To Article 375 Of The Criminal Code', 2022, 3–7.

However, based on the research results, the application of restorative justice still depends on the investigator's discretion in determining whether this case can be resolved through these efforts. Therefore, the implementation of the restorative justice policy must still be carried out in accordance with applicable regulations.

V. CONCLUSION

Based on the research conducted, the application of restorative justice in embezzlement cases at the Cirebon Police is carried out through mediation between the parties, prioritizing the peaceful resolution of the conflict. In this case, the perpetrator admitted his mistake, returned the victim's car as a form of responsibility for the embezzlement crime carried out, and apologized to the victim. The victim was then willing to accept the apology sincerely and agreed to settle the case through a restorative justice approach based on his own wishes without any interference or pressure from other parties.

In addition, legal protection for victims of embezzlement through restorative justice can be seen from the restoration of victims' rights through the return of the victim's car by the perpetrator, the freedom for victims to determine their willingness to accept peace, and the settlement of cases that are carried out voluntarily, prioritizing a sense of justice for the victim. Based on this, the restorative approach to embezzlement crimes not only aims to resolve cases peacefully but also provides legal protection, the restoration of rights, and a sense of justice for victims harmed by the perpetrators' actions.

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