

The Application Of Restorative Justice In The Crime Of Child Violence; Solutions Or Threats To The Sense Of Justice

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ABSTRACT

Cases of violence against children in Indonesia continue to increase, posing challenges for the justice system in balancing the punishment of perpetrators and the recovery of victims. The Restorative Justice (RJ) approach emerged as an alternative to case resolution that emphasizes victim recovery, perpetrator accountability, and community involvement. In the Indonesian legal system, RJ is accommodated through the Juvenile Criminal Justice System Law (SPPA Law) with a mechanism of diversion and penal mediation, which only applies to criminal acts with a threat of less than seven years and not the repetition of the crime. However, the application of RJ in cases of violence against children raises a dilemma, especially related to the risk of repeated trauma, social pressure, and potential injustice for victims. In addition, the effectiveness of RJ in providing a deterrent effect for perpetrators is still questionable. This study uses normative juridical methods with legislative and conceptual approaches to analyze related regulations and implications of RJ in child protection. The results of the study show that the implementation of RJ must be carried out with strict supervision, legal and psychological assistance for victims, and supervision mechanisms for perpetrators so as not to ignore the rights of victims. With clear regulations and strict supervision, RJ can be a more humane solution in handling cases of violence against children.

Keywords: Diversion; Juvenile Criminal Justice System; Restorative Justice, Victim Recovery; Violence against Children

INTRODUCTION

Cases of violence against children in Indonesia continue to show an increasing trend, both in the form of physical, psychological, and sexual violence. Data from the Ministry of Women's Empowerment and Child Protection (KPPPA) and a report from the Indonesian Child Protection Commission (KPAI) show that thousands of cases of violence against children occur every year, with the number continuing to increase due to various factors such as weak family supervision, unsafe social environment, and lack of public awareness in reporting cases of violence. This problem is even more complex because in many cases, the perpetrators actually come from the victim's immediate environment, such as family, teachers, or people who are supposed to provide protection. This situation raises a major dilemma in the criminal justice system, namely how to

balance the punishment aspect of perpetrators with the need for psychological and social recovery for victims so that they can continue their lives without prolonged trauma.

The legal approach applied in cases of violence against children is often oriented towards repressive punishments, such as prison sentences given to the perpetrator. However, this approach does not always guarantee recovery for victims who often face long-term psychological impacts. This is where the discourse of the application of restorative justice as an alternative in resolving cases of violence against children emerges, which emphasizes the recovery of victims and accountability of perpetrators through mediation and compensation.¹ Nonetheless, many question the effectiveness of this approach, especially in the context of justice for victims. If not applied with strict supervision and clear principles, restorative justice has the potential to benefit perpetrators and ignore the rights of victims, thus creating inequality in the justice system. Therefore, a more in-depth study and strict regulations are needed so that the implementation of restorative justice does not become a threat to the community's sense of justice, especially for children as victims of violence.

In the legal context in Indonesia, the application of restorative justice to children in conflict with the law has been accommodated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law).² This law emphasizes that a restorative justice approach must be a priority in dealing with children who are in conflict with the law, including in cases of violence against children. Article 5 of the SPPA Law states that the juvenile criminal justice system must prioritize a restorative justice and diversion approach, with the aim of avoiding the negative impact of punishment for children. However, it should be noted that the application of restorative justice in cases of violence against children has certain limitations. Article 7 paragraph (2) of the SPPA Law states that diversion as a concrete form of restorative justice can only be applied to criminal acts with a criminal threat of less than seven years and is not a repetition of a criminal act. Thus, for cases of severe violence against children, this approach should not be used as the main solution, because it risks ignoring the aspect of justice for the victim and has the potential to provide space for the perpetrator to avoid appropriate punishment.³

Furthermore, the application of restorative justice in cases of violence against children must consider the impact on the victim, especially in psychological and social aspects.⁴ Although this approach focuses on recovery and reconciliation, in many cases, the child as a victim is often in a vulnerable position and lacks the power to refuse or negotiate the justice they receive.⁵ Research conducted by UNICEF and the National Commission for Child Protection shows that child victims of violence often experience social and psychological distress when forced to reconcile with the perpetrator, especially

¹ Afifah, N. N. (2024). Perbandingan Antara Pendekatan Keadilan Restoratif dan Pendekatan Hukum Adat dalam Kasus Tindak Pidana Ringan. *Syntax Idea*, 6(6), 2804-2816.

² Sugama, F., Rahmad, Y., Az, M. R., Ridwan, M. A., Rozi, F., Azis, A., & Jum'ah, J. A. (2024). Efektivitas Penerapan Restorative Justice Dalam Penyelesaian Tindak Pidana Anak Di Indonesia. *Jimmi: Jurnal Ilmiah Mahasiswa Multidisiplin*, 1(3), 306-316.

³ Heriantoni, H. (2022). *Tinjauan Maqasid Syari'ah Terhadap Penanganan Anak Korban Kekerasan Seksual di Women's Crisis Center (WCC) Kota Bengkulu* (Doctoral dissertation, UIN Fatmawati Sukarno Bengkulu).

⁴ Alivia, A., & Lebang, M. A. S. (2024). Pentingnya Keadilan Restorative Justice Dalam Tindak Pidana Pencurian Oleh Anak Berdasarkan Hukum Positif Di Indonesia. *Scientia Journal: Jurnal Ilmiah Mahasiswa*, 6(1).

⁵ Arifah, L. (2024). *Tinjauan Yuridis Penerapan Restorative Justice Dalam Kasus Pelecehan Anak Dibawah Umur* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

if the perpetrator comes from a nearby environment such as family or teachers. Therefore, in the implementation of restorative justice, the state must ensure that there is a strict supervision mechanism, assistance for victims, and sanctions that continue to provide a deterrent effect for perpetrators. Otherwise, this policy can actually be a threat to a sense of justice, where the perpetrator is given the opportunity to avoid full accountability, while the victim is trapped in a system that does not fully protect his rights.

In addition, in practice, the application of restorative justice in cases of violence against children often faces structural and cultural obstacles. One of the main challenges is the power imbalance between the victim and the perpetrator, especially when the perpetrator has greater social, economic, or political influence.⁶ In some cases, victims' families have been pressured to accept a peaceful settlement under the pretext of maintaining social harmony, even though this is contrary to the basic principles of justice. A study conducted by the Witness and Victim Protection Institute (LPSK) shows that many victims of child violence experience victimization due to social pressure and lack of strong legal protection in the mediation process. When restorative justice is implemented without a strict protection mechanism, victims can experience repeated trauma and lose trust in the justice system.

On the other hand, the restorative justice approach in cases of violence against children also raises questions related to the deterrent effect for perpetrators.⁷ If it is not accompanied by proportionate sanctions and effective rehabilitation mechanisms, there is a potential for perpetrators to consider violence against children as a criminal act that can be resolved peacefully, without significant consequences. This risks creating impunity and lowering public trust in the legal system. In this context, the implementation of restorative justice must be balanced with policies that continue to place the interests of victims as the top priority, in accordance with the principles in Article 2 of Law Number 35 of 2014 concerning Child Protection, which emphasizes that child protection must be based on the best interests of children.⁸ Therefore, without strict regulations and transparent oversight mechanisms, restorative justice in crimes of violence against children can actually become a serious threat to social justice.

In the context of policy implementation, unclear regulations and inconsistencies in the implementation of restorative justice have the potential to create legal loopholes that can be exploited by perpetrators of crimes against children. Although normatively restorative justice is regulated in the SPPA Law and various derivative policies, in practice there are still many cases where law enforcement officials have different standards in determining whether a case is feasible to resolve through this approach.⁹ A study from the Institute for Criminal Justice Reform (ICJR) shows that many law enforcement officials still have a conventional paradigm that prioritizes the interests of

⁶ Wardhani, K. A. P. (2021). Perlindungan Hukum terhadap Perempuan Korban Kekerasan dalam Rumah Tangga (KDRT) pada Tingkat Penyidikan Berdasarkan Undang-Undang No. 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga (UUPKDRT). *Jurnal Riset Ilmu Hukum*, 21-31.

⁷ Ritonga, I. M. S. (2024). Kritik Restorative Justice dalam Kasus Pelecehan Seksual di Pesantren: Analisis Undang-Undang No. 12 Tahun 2022. *Legalite: Jurnal Perundang Undangan Dan Hukum Pidana Islam*.

⁸ Mahendra, I. G. A. P. (2022). Upaya Kepolisian Negara Republik Indonesia Dalam Menanggulangi Tindak Pidana Pencurian Yang Dilakukan Pelaku Di Bawah Umur Dengan Penerapan Asas Restorative Justice. *Jurnal Hukum Media Justitia Nusantara*, 12(1), 99-145.

⁹ Hakim, E. M. D. (2024). *TINJAUAN YURIDIS TENTANG PENERAPAN RESTORATIVE JUSTICE DALAM SISTEM PERADILAN PIDANA ANAK DI INDONESIA* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

perpetrators over the rights of victims. This is exacerbated by the weak monitoring system for the mediation process, which is often carried out without the assistance of psychologists or child protection experts, thus increasing the risk of pressure on victims to accept a settlement that is not in favor of justice.

Furthermore, the application of restorative justice in cases of violence against children must consider long-term aspects, especially related to victim rehabilitation and supervision of perpetrators. A justice system that focuses only on quick resolution without considering the psychosocial impact on victims can exacerbate trauma and hinder their recovery process. Reports from UNICEF and Komnas Perempuan revealed that many victims of child violence are forced to live in fear because the perpetrators remain in the same environment after the mediation process. This shows that without effective rehabilitation mechanisms for victims and strict supervision of perpetrators, restorative justice can be a solution that not only fails to provide justice, but also worsens the condition of victims. Therefore, this policy must be implemented with a stricter approach and based on children's rights, as mandated in the Convention on the Rights of the Child (CRC) which has been ratified by Indonesia through Presidential Decree Number 36 of 1990.

METHOD

This research uses a normative juridical method, which is legal research that focuses on the study of applicable legal norms, both in laws and regulations and in legal practice. The approaches used in this study are the statute approach and the conceptual approach. The legislative approach is carried out by analyzing various related regulations, such as Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law), Law Number 35 of 2014 concerning Child Protection, and the Convention on the Rights of the Child (CRC). Meanwhile, a conceptual approach is used to examine theories of justice, children's rights, and the concept of restorative justice in the criminal justice system.

This research relies on three types of legal materials, namely primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and regulations, court decisions related to the application of restorative justice in cases of violence against children, and international legal documents that have been ratified by Indonesia. Secondary legal materials include legal literature, scientific journals, and research results from legal institutions such as the Witness and Victim Protection Institute (LPSK), Komnas Anak, UNICEF, and the Institute for Criminal Justice Reform (ICJR) which discuss the effectiveness and implications of restorative justice in cases of violence against children. Meanwhile, tertiary legal materials consist of legal dictionaries, legal encyclopedias, and various other supporting sources that provide conceptual understanding related to the topic being studied.

The data in this study was collected through document study (library research) by examining laws and regulations, court decisions, and various relevant scientific literature. The analysis technique used is a descriptive-analytical method, namely by describing the applicable legal regulations and criticizing them based on the theory and concept of justice, children's rights, and the effectiveness of the application of restorative justice in the juvenile criminal justice system. This study aims to examine the extent to which restorative justice in cases of violence against children can provide justice for victims, as well as identify potential threats or weaknesses from the application of this approach in the context of child protection. With a normative juridical approach, this research is

expected to provide recommendations based on the principles of legal justice and the protection of children's rights in Indonesia

DISCUSSION

Juridical Analysis of the Application of Restorative Justice in Cases of Violence against Children

1. Legal Basis and Provisions of Restorative Justice in Cases of Violence against Children

Restorative justice is an approach in the criminal justice system that focuses on victim recovery, perpetrator accountability, and community involvement in resolving conflicts. In the context of violence against children, this approach aims to avoid the negative impact of the conventional criminal justice system on children as victims and perpetrators.¹⁰ Some of the legal instruments that are the basis for the application of restorative justice in cases of violence against children in Indonesia are Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law), Law Number 35 of 2014 concerning Child Protection, and the Convention on the Rights of the Child (CRC). The SPPA Law regulates the diversion mechanism as a form of restorative justice, emphasizes that the resolution of children's cases must prioritize the best interests of children, and requires diversion to be carried out at the level of investigation, prosecution, and examination in court for children who are in conflict with the law.¹¹ Meanwhile, the Child Protection Law affirms the right of children to be protected from violence, exploitation, and mistreatment, and encourages a non-punitive approach in handling cases involving children, both as victims and perpetrators.¹² The Convention on the Rights of the Child (CRC), which has been ratified through Presidential Decree No. 36 of 1990, mandates that the juvenile justice system must prioritize the recovery and welfare of children and encourage the alternative use of criminal punishment for children who are in conflict with the law.

In its application, restorative justice in cases of violence against children uses the mechanism of diversion and penal mediation. Diversion is an effort to transfer the settlement of children's cases from the judicial process to outside the criminal justice system with a restorative approach. In accordance with Article 6 of the SPPA Law, diversion aims to achieve peace between victims and perpetrators, avoid children from the stigma of the criminal justice system, encourage the social responsibility of the perpetrators, and prevent the repetition of criminal acts by children. Diversion can be carried out by law enforcement officials (investigators, prosecutors, or judges) through deliberations involving victims, perpetrators, families, and social workers, with agreements that can be in the form of restitution to parents, rehabilitation, social services, or compensation to victims. In addition, there is a penal mediation mechanism, which is a negotiation process between the perpetrator and the victim mediated by a neutral third party to reach a case settlement agreement. In cases of violence against children, penal

¹⁰ Liyus, H., & Wahyudi, D. (2020). Pendekatan Restorative Justice Dalam Penyelesaian Tindak Pidana Kekerasan Dalam Rumah Tangga. *Jurnal Sains Sosio Humaniora LPPM Universitas Jambi*, 4(2), 495-509.

¹¹ Mulyadi, D. L., & SH, M. (2023). *The face of Indonesia's juvenile criminal justice system*. Alumni Publishers.

¹² Hutagalung, K. (2020). Penanganan Terhadap Anak Yang Berkonflik Dengan Hukum Dalam Tindak Pidana Kecelakaan Lalu Lintas Dan Angkutan Jalan Dalam Undang-Undang No. 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak (Studi Kasus Pada Polres Labuhanbatu).

mediation can be used if the victim and his or her family agree to resolve the case amicably with the best interests of the child in mind. Some studies have shown that restorative justice approaches are more effective in reducing recidivism rates and providing a higher sense of justice for victims compared to the retributive criminal justice system.¹³ In addition, studies have found that victims in the restorative justice system are more likely to be satisfied with the outcome of the case resolution compared to conventional methods.¹⁴

In order for restorative justice to be applied in cases of violence against children, several key conditions must be met. First, the perpetrator must be a child in conflict with the law. Second, the case handled must meet the criteria for diversion, namely having a criminal threat of less than seven years and not a repetition of a serious crime. Third, the victim and his family must be willing to resolve the case peacefully. Fourth, there must be an agreement between all parties regarding the form of settlement to be taken. Fifth, the settlement of the case must not be contrary to the public interest or deprive the child of his fundamental right to obtain justice. By meeting these conditions, the application of restorative justice in cases of violence against children can run effectively and in accordance with applicable laws. This approach aims to prioritize the best interests of children by avoiding the negative impact of the conventional criminal justice system and ensuring the welfare of children in the legal system. In addition, this approach has a positive impact on improving victim recovery and rebuilding healthier social relationships between perpetrators and victims, which can ultimately reduce the likelihood of children re-offending the law.

2. Limitations on the Application of Restorative Justice in Cases of Violence Against Children

The Restorative Justice approach in the juvenile criminal justice system in Indonesia is regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law). One of the key mechanisms in this approach is diversion, which aims to keep children out of the formal justice process and provide rehabilitation and recovery opportunities for all parties involved. According to the theory of Restorative Justice developed by Howard Zehr, this approach focuses on restoring social relationships, meeting the needs of the victim, and taking responsibility for the actions that have been committed. Article 7 of the SPPA Law stipulates that diversion can only be applied if a child in conflict with the law commits a criminal act that is threatened with imprisonment for less than seven years and does not constitute a repeat of the crime (recidivism). This provision shows that there are strict limits on cases that can be resolved through Restorative Justice, including in the context of violence against children. If the case of violence against a child meets the criteria for criminal threats under seven years and is not a repetition, then diversion may be considered. However, if the criminal act committed has a criminal threat of more than seven years or is a repetition, then the diversion mechanism cannot be applied.¹⁵

¹³ Sihombing, L. A., & Nuraeni, Y. (2023). efektifkah restoratif justice? Suatu kajian upaya optimalisasi sistem peradilan pidana di indonesia. *Jurnal Hukum Mimbar Justitia*, 9(2), 273-304.

¹⁴ Flora, H. S. (2023). Perbandingan Pendekatan Restorative Justice Dan Sistem Peradilan Konvensional Dalam Penanganan Kasus Pidana. *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam*, 5(2), 1933-1948.

¹⁵ Karisma, D., Pratiwi, B., & Handoko, S. (2024). Penerapan Restorative Justice dalam Kasus Kekerasan Domestik di Indonesia: Studi Empiris di Wilayah Perkotaan dan Pedesaan. *Hakim: Jurnal Ilmu Hukum dan Sosial*, 2(4), 757-773.

In practice, not all cases of violence against children can be resolved through the Restorative Justice approach. According to the study, it was found that the effectiveness of Restorative Justice is highly dependent on the type of crime and its impact on the victim.¹⁶ Cases that qualify for diversion generally involve minor violence or negligence that did not cause serious injury or significant psychological impact to the victim. Some examples of criminal acts that can be considered for diversion include minor violence that does not result in serious injury, persecution with criminal threats under seven years, and cases involving children as perpetrators with consideration of the best interests of the child. However, for cases of severe violence against children, such as severe abuse, sexual exploitation, or domestic violence that cause serious physical and psychological impacts, the Restorative Justice approach cannot be applied because it is contrary to the principles of justice for the victim.

One of the main challenges in the implementation of Restorative Justice is to ensure that the rights of children who are victims are protected. The implementation of restorative justice must pay attention to the balance between victim recovery and perpetrator accountability.¹⁷ Some aspects that need to be considered include the right to justice, where victims of child violence have the right to get justice that is commensurate for the suffering they experience. If Restorative Justice is applied inappropriately, there can be dissatisfaction on the part of the victim because the perpetrator does not receive the punishment that is considered commensurate. In addition, protection from further trauma is also a concern, because in some cases, meetings between the perpetrator and the victim in the mediation process can cause additional trauma for the victim, especially if there is no adequate psychosocial support. In addition, rehabilitation guarantees also need to be considered, where the state must ensure that victims have access to psychological and social recovery to overcome the impact of the violence they experience.

To ensure that the implementation of Restorative Justice does not sacrifice justice for children who are victims of violence, the state needs to take steps such as selective enforcement, where Restorative Justice should be applied taking into account the impact on the victim and should not be used to lighten sentences for perpetrators in serious cases. In addition, strict supervision must be carried out in the diversion process by involving law enforcement officials, social workers, and psychologists to ensure that the decisions taken do not harm the victim. The state must also provide assistance to victims, both in the form of legal, psychological, and social assistance, so that they feel safe and get a decent recovery. Regular policy evaluations are also needed to ensure the effectiveness of the implementation of Restorative Justice in cases of violence against children and to prevent the abuse of this mechanism so that it remains oriented towards child protection.

The application of Restorative Justice in cases of violence against children has limitations regulated in the SPPA Law, especially related to the level of criminal threats and the repetition of criminal acts. While this approach aims to provide a more humane solution, there needs to be a balance so that victims' rights are protected. The Restorative Justice approach can be an effective tool in resolving legal cases if implemented correctly

¹⁶ Sihombing, L. A. (2024). Restorative Justice, Kejahatan, Hukuman, Dan Peradilan Pidana: Sebuah Analisis Kesejarahan, Peluang Dan Tantangan. *UNES Law Review*, 6(3), 8902-8911.

¹⁷ Ginting, Y. P., Ozora, A., Santoso, F. T. M., Sadikin, J. M., & Marceliani, R. (2024). Upaya Penyelesaian Tindak Pidana melalui Upaya Restorative Justice dengan melibatkan Keluarga Pelaku/Keluarga Korban. *Jurnal Pengabdian West Science*, 3(04), 410-428.

and considering the rights and needs of victims.¹⁸ Therefore, the state has a responsibility to ensure that this mechanism is not used indiscriminately so as not to sacrifice justice for children who are victims of violence.

The Effectiveness of Restorative Justice in Ensuring Justice for Victims of Child Violence

1. The Impact of Restorative Justice on Justice for Victims of Child Violence

Restorative justice is an approach to criminal justice that focuses on recovery for victims, perpetrators, and the community rather than simply providing punishment for perpetrators. This approach is widely applied in the juvenile criminal justice system, as recommended by the Convention on the Rights of the Child (CRC) and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules). However, in the context of violence against children, the application of restorative justice has raised debates regarding its effectiveness in providing a sense of justice for victims. On the one hand, this approach can provide an opportunity for victims to be heard and obtain recovery through dialogue and reconciliation. Restorative justice focuses on the needs of victims, the perpetrator's obligation to take responsibility, and community involvement in conflict resolution.¹⁹ However, on the other hand, this approach can have a negative impact, especially from psychological and social aspects, if it is not implemented with the principle of prudence.

Victims can experience repeated trauma if they have to interact directly with the perpetrator in mediation. Trauma in victims of violence can worsen if they are re-confronted with the perpetrator in unsupportive conditions, such as emotional distress or bullying.²⁰ In addition, the emotional distress that arises from mediation, especially if it is done under sub-optimal conditions, can cause the victim to feel intimidated or uncomfortable. If the victim feels that the perpetrator does not get the punishment he deserves, then their sense of justice can be disturbed. In cases of serious crimes such as child violence, victims often feel that restorative justice benefits the perpetrator more than they do, especially if there is no clear support mechanism.²¹

In addition to psychological impacts, restorative justice also has social consequences for victims. Stigma and social pressure from the family or community can make the victim forced to forgive the perpetrator in order to maintain social harmony, which can ultimately sacrifice his rights. In some communities, especially in patriarchal environments, social pressures often lead to injustice for victims, as they are forced to put the interests of the family or community above individual justice. In some cases, there is an inequality of power in negotiations, especially if the perpetrator is a family member or has an influential position in society. This further weakens the victim's position in mediation. If the agreement on the outcome of the mediation is not followed by strict

¹⁸ Ritonga, I. M. S. (2024). Kritik Restorative Justice dalam Kasus Pelecehan Seksual di Pesantren: Analisis Undang-Undang No. 12 Tahun 2022. *Legalite: Jurnal Perundang Undangan Dan Hukum Pidana Islam*.

¹⁹ Rizky, A., & Rahim, A. J. (2024). PENGARUH BUDAYA LOKAL TERHADAP PELAKSANAAN RESTORATIVE JUSTICE DI INDONESIA. *Journal Publicuho*, 7(3), 1443-1450.

²⁰ Yohanes, H., Fitriani, F., & Khalillah, S. (2024). Cyberbullying Terhadap Kesehatan Mental Remaja Wanita Dengan Latar Belakang Broken Home. *Corona: Jurnal Ilmu Kesehatan Umum, Psikolog, Keperawatan Dan Kebidanan*, 2(3), 01-11.

²¹ Telaumbanua, F. F., & Citra, H. (2024). Perlindungan Hukum Terhadap Perempuan Korban KDRT (Kajian Terhadap Implementasi Keadilan Restoratif). *Jurnal Kajian Hukum Dan Kebijakan Publik* | E-ISSN: 3031-8882, 1(2), 121-131.

supervision, the victim risks experiencing violence again without adequate legal protection. Therefore, in order for restorative justice to truly provide benefits to victims, a strong mentoring mechanism is needed.

Legal and psychological assistance for victims should always be available to ensure that they do not feel pressured or coerced in the mediation process. In an ideal restorative justice practice, victims should be given the full support of a neutral counselor or mediator to ensure that they feel safe and heard in the process. An evaluation of the victim's readiness also needs to be carried out before mediation begins to avoid worse psychological impacts. In addition, recovery for victims must be guaranteed, both in the form of compensation and actions that help victims psychologically and socially. The success of restorative justice in cases of violence relies heavily on the existence of rehabilitation plans and long-term monitoring to ensure that victims do not experience rehabilitation.

In terms of protecting victims' rights, the state has a very important role in ensuring that restorative justice does not harm them. Clear regulations must be established, especially in limiting the types of cases that can be resolved with this approach, given that violence against children is a serious crime with long-term impacts. Restorative justice can be effective if applied in cases where the perpetrator shows remorse and readiness to take responsibility, but it is less effective if the perpetrator does not show good faith. The state must also ensure that there is monitoring of the implementation of the mediation agreement so that it really benefits the victim and not only the perpetrator. In addition, victims should be given the option to pursue formal legal channels if restorative justice does not provide sufficient justice. Thus, restorative justice can be an effective solution in resolving cases of violence against children, but only if it is applied very carefully and supported by strong protection mechanisms for victims. Without strict supervision and an adequate support system, this approach risks ignoring the rights of victims and having greater psychological and social impacts.

2. Deterrent Effect and Potential Victimization in the Implementation of Restorative Justice

Restorative justice (RJ) aims to resolve legal conflicts through a dialogue approach between perpetrators, victims, and the community in order to reach a fair agreement for all parties. However, in the case of violence against children, the effectiveness of RJ in providing a deterrent effect for perpetrators is still a matter of debate. Some findings suggest that perpetrators of violence against children who undergo the RJ process tend to receive lighter sentences compared to the conventional criminal justice system. A study from the Witness and Victim Protection Institute (LPSK) shows that without a strict supervision mechanism, perpetrators can repeat their actions due to the lack of sanctions that have a deterrent effect. UNICEF notes that in some cases, the application of RJ can be a loophole for perpetrators to avoid harsher punishments, especially if the legal system prioritizes peace over justice for victims. Some countries that apply RJ in cases of child violence also show that the success of RJ depends on the existence of rehabilitation mechanisms for perpetrators so that they do not repeat their actions. The effectiveness of RJ is highly dependent on the recovery aspect for the perpetrator, the victim, and the

community, but in cases of severe violence such as against children, this approach must be complemented by sanctions that still provide a preventive effect.²²

One of the main weaknesses of RJ in cases of violence against children is the possibility of revitalization. This can happen if the victim is forced to reconcile with the perpetrator without adequate protection mechanisms. Children who are victims of violence are under psychological and social pressure to accept a peaceful settlement, even though they are not comfortable with the decision. The absence of strict supervision of the perpetrator after the RJ process is completed has the potential to make the victim experience violence again. In some cases, the victim's family or community is more supportive of the perpetrator than the victim, so that the victim does not get the proper protection. Restorative Justice in serious crime cases often puts victims in a weak position, especially if there is not enough legal and social support. Studies from LPSK and UNICEF highlight that the application of RJ in cases of violence against children must be done with great care. Some of the recommendations put forward to prevent victimization include the existence of strong protection mechanisms for victims before, during, and after the RJ process, strict monitoring of perpetrators to ensure they do not repeat acts of violence, active participation of child protection agencies to ensure that decisions in RJ truly accommodate the interests of victims, and the application of RJ only in certain cases that have undergone rigorous evaluation, Especially related to the readiness of the victim to be involved in this process.

The application of RJ in cases of violence against children has potential benefits but also great risks. Without strict supervision and protection mechanisms, RJ can fail to provide a deterrent effect for perpetrators and instead create opportunities for them to repeat their actions. In addition, the potential for victimization needs to be a major concern so that the RJ process does not harm those who should get justice. Although RJ can be an effective alternative in conflict resolution, cases of severe violence such as child abuse require a hybrid approach that combines restorative justice with elements of retributive justice.²³ Therefore, RJ's policy in cases of violence against children must be accompanied by strict regulations and an effective monitoring system to ensure justice for victims and prevention of possible impunity for perpetrators

CONCLUSION

Restorative Justice (RJ) is an approach that emphasizes victim recovery, perpetrator accountability, and community involvement in resolving cases of violence against children. This approach is based on various legal instruments, such as the SPPA Law, the Child Protection Law, and the Convention on the Rights of the Child, which regulate the mechanism of diversion and penal mediation as the main form of resolving cases outside the criminal justice system. Diversion can only be applied to cases with criminal threats under seven years and are not a repeat criminal offense. While RJ can provide space for victims to get recovery, there is a risk of repeated trauma, social pressure, and inequities in the mediation process that can hinder justice for victims. In addition, the effectiveness

²² Putra, M. F. V. (2023). jurnal Asas Dominus Litis dalam Proses Penyelesaian Perkara Tindak Pidana Penganiayaan Melalui Restorative Justice: Asas Dominus Litis dalam Proses Penyelesaian Perkara Tindak Pidana Penganiayaan Melalui Restorative Justice. *Hangoluan Law Review*, 2(2).

²³ Ramzi, M. (2024). *Tinjauan Yuridis Pendekatan Restorative Justice Oleh Kepolisian Dalam Penyelesaian Kasus Tawuran Di Indonesia* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

of RJ in providing a deterrent effect for perpetrators is still questionable because lighter sentences and lack of post-mediation supervision can increase the risk of repetition of criminal acts. In cases of severe violence that have a significant impact on the victim, the implementation of the RJ also risks ignoring the rights of victims to get justice they deserve. Therefore, in order for RJ to be truly effective in ensuring justice for victims of child violence, its implementation must be carried out selectively with strict supervision and legal and psychological assistance for victims. The involvement of child protection agencies and monitoring mechanisms against perpetrators is urgently needed to prevent the negative impact of this approach. With careful implementation and a strong protection system, RJ can be a more humane solution in handling cases of violence against children without sacrificing the rights of victims.

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