






## LEX JOURNAL: KAJIAN HUKUM DAN KEADILAN

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## **Restorative Justice as Legal Protection for Children who are Victims of Crime**

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### **ABSTRACT**

This article discusses the role of restorative justice as a legal protection mechanism for children who become victims of criminal acts. The protection of children is mandated by Indonesian law, emphasizing the importance of safeguarding children's rights to live, grow, develop, and participate fully, free from violence and discrimination. The juvenile criminal justice system prioritizes restorative justice to avoid stigmatization and formal legal proceedings that may negatively impact children. Restorative justice seeks to repair the harm caused by crime through dialogue and mutual agreement between the victim and the offender, involving the community and relevant stakeholders. This approach emphasizes reconciliation, compensation, social work, and community-based solutions to restore relationships rather than focusing solely on punishment. The article analyzes legal frameworks, case studies, and the principles underpinning restorative justice in Indonesia, highlighting both its potential benefits and challenges, including legal gaps and implementation issues. The study concludes that while restorative justice offers a valuable alternative to conventional punitive systems by emphasizing fairness, victim protection, and social harmony, it must be carefully monitored and supported by trained facilitators to ensure justice for child victims and accountability for offenders.

**Keywords:** Restorative Justice, Child Victim Protection, Juvenile Criminal Justice System

## **1. INTRODUCTION**

Child protection has been regulated in Law Number 23 of 2002 concerning Child Protection which has been amended by Law Number 35 of 2014, where Article 1 number 2 provides the following limitations on child protection: "Child protection is all activities to ensure and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with the dignity of humanity, and receive protection from violence and discrimination". From the limitations of child protection that have been regulated in the law, children need to be protected from anything that will happen to them. Children are very easy to become victims of all forms of violence and crime because children are not yet able to do things to protect themselves.

Regarding the settlement of juvenile cases, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System requires the prioritization of the Restorative Justice approach in the juvenile justice system as outlined in Article 5 of the Juvenile Criminal Justice System Law that: "The Juvenile Justice System shall prioritize the Restorative Justice approach". The prioritization of *restorative justice* approach in criminal law, because it has the power to restore the relationship between the perpetrator and the victim (Sunarso, 2014). The existence of this *restorative justice* approach will certainly have a relationship with the rights possessed by children as victims.

*Restorative justice* in the Juvenile Criminal Justice System Law through the diversion stage is intended to avoid and keep children away from the judicial process, so as to avoid stigma against children in conflict with the law and it is hoped that children can return to a reasonable social environment. So that there can be a restoration of relations between the perpetrators and victims in a criminal offense. This restoration of relations can be based on mutual agreement between the victim and the perpetrator. The victim can convey the loss suffered, and the perpetrator is given the opportunity to make

up for it, through the mechanism of compensation, peace, social work, or other agreements.

According to Howard Zehr *restorative justice* as "a process to involve as far as possible the parties involved in a particular criminal offense to jointly identify and address harms, needs and obligations in order to restore the best possible case" (Chandra, 2023). Tony Marshall also argues that restorative justice is a process in which all parties to a particular offense come together to collectively problem solve how to make agreements about the (bad) consequences of an offense from future implications (Waluyo, 2016).

Based on the Decree of the Director General of the General Justice Agency of the Supreme Court of the Republic of Indonesia Number 1691/DJU/SK/PS.00/12/2020 concerning the Application of Restorative *Justice*, the purpose of implementing *restorative justice* is to reform the *criminal justice system* which still prioritizes imprisonment. The development of the punishment system no longer relies on the perpetrator but has led to the alignment of the interests of victim recovery and the accountability of the perpetrator of the crime.

The basic principle of *restorative justice* is the recovery of victims who suffer from crimes by providing a fair law that is certainly not one-sided, impartial, not arbitrary, and only takes sides considering the equality of compensation rights and balance in every aspect of life. Some cases of children who are victims of criminal acts which in practice are resolved through *Restorative Justice* include:

- a. At the end of 2023, there was a case of maltreatment in Batam City against a 16-year-old boy, the son of a member of the Riau Islands Regional House of Representatives. On Monday at around 01.00 WIB, Satria Mahtiar and three of his colleagues were acting in a cafe in the Tiban 1 area, Sekupang, Batam. Initially, the incident began with a clash between the perpetrator and the victim that sparked a dispute. As a result, the perpetrators jointly assaulted the victim, causing injuries to the lips, back of the head, and bruises to the victim's right arm, ankle and jaw. In handling this case, there was a settlement using *restorative justice*. According to AKP Tigor Sidabariba, the perpetrator and the

victim had agreed to settle the case through *restorative justice*, and had held a meeting to reach an agreement to stop the case and withdraw the report (Fraiskam et al., 2024).

- b. A student from SMP Negeri 27 Medan City who was a victim of *bullying*. This incident occurred on the side of the road in Medan. In the 54-second video upload, it shows a student of SMP Negeri 27 Medan with the initials A who is the perpetrator of the *bullying* act grabbing and beating his friend with the initials ATS. From the statement of Renaldi Purwanto, Deputy Principal of SMP Negeri 27 Medan. This case began when ATS said inappropriate words to A. ATS's family was angry at this action and brought the case against their child to the police. However, the Medan City Police (Polrestabas) tried to apply *restorative justice* to the two students (Suryani et al., 2023).
- c. On Sunday, October 17, 2021 at approximately 18:15 WIB at Jl. Housing Head of Service Lung Baro Village Kec. Suka Makmuer Kab. Nagan Raya, a case of maltreatment was committed by the suspect WD due to emotional reasons, where the victim AD was sitting with his brother and friend looking towards the highway, coinciding with the perpetrator passing by on a motorbike in front of them, because the perpetrator did not like being seen by the victim, the victim's brother and the victim's friend, the perpetrator stopped and approached those who were sitting and talking, when the perpetrator approached the victim, his brother and friend, that's where the argument began so that the perpetrator aimed at the victim and immediately punched him in the head, threw a stainless knife with a length of 20 cm. As a result of the persecution committed by the perpetrator against the victim, the result of the Visum ET Repertum Number 045/VER/RSUD-SIM/2021 of a boy (victim) AD. As a result of the examination, a lump was found on the upper left forehead with a diameter of 2 cm and a scratch wound with a length of 0.5 cm which was suspected to be caused by blunt force trauma and a laceration was found on the upper left arm with a length of 4 cm, a width of 2 cm and a depth of 0.3 cm which was suspected to be caused by sharp force trauma, as a result of the actions of the perpetrator the victim suffered serious injuries and 5 (five) stitches were sewn on the arm and the victim was also unable to carry out activities for 7 days. The prosecutor's office tried to stop the prosecution which was resolved with *restorative justice*. Located at the Nagan Raya District Attorney's Office, a virtual expose was held with the Head of the Aceh High Prosecutor's Office regarding the termination of prosecution based on *Restorative Justice*, efforts to terminate prosecution were approved by looking at the conditions in accordance with the Indonesian Attorney General's Regulation Number 15 of 2020 (Purmaningrum & Jhowanda, 2023).

Based on the juvenile cases mentioned above, it shows that in various principles and models of the *restorative justice* approach, the dialogue process between the perpetrator and the victim is the basic moral and the most important part of the application of this justice. Direct dialogue between the perpetrator and the victim allows the victim to express what he/she feels, express hope for the fulfillment of rights and desires from a criminal case settlement. From this dialogue process, the community can also participate in realizing the results of the agreement and monitoring its implementation. Therefore, basically *restorative justice* is also known as case settlement through mediation (penal mediation).

Based on the Chief of Police Circular Letter Number: SE/8/VII/2018 concerning the Application of Restorative *Justice* in Criminal Case Resolution, there are guidelines for the implementation of *Restorative Justice*, namely:

- a. The fulfillment of material requirements, namely:
  - 1) There was no public unrest and no public rejection;
  - 2) No impact on social conflict;
  - 3) A declaration from all parties involved not to object, and to waive their right to sue before the law;
  - 4) Limiting principle:
    - a) In perpetrators
      - (1) The degree of guilt of the perpetrator is relatively not severe, namely guilt (*Schuld* or *mensrea* in the form of intent (*dolus* or *opzet*), especially intent as an intention or purpose *opzet als oogmerk*);
      - (2) The perpetrator is not a recidivist.
    - b) On Crimes in progress:
      - (1) Investigation;
      - (2) Investigation before the SPDP is sent to the Public Prosecutor.
- b. The fulfillment of the formal requirements, namely:

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**LEX JOURNAL: KAJIAN HUKUM & KEADILAN**

- 1) Peace Request Letter from both parties (complainant and reported party);
- 2) Peace Statement (akte dading) and settlement of disputes between the parties (the reporter, and/or the reporter's family, the reported and/or the reported's family and representatives of community leaders) known by the investigator's superior;
- 3) Additional Minutes of Examination of the litigants after case settlement through *restorative* justice;
- 4) Recommendation of a special case title approving a *restorative* justice resolution;
- 5) The perpetrator does not object to liability, compensation, or voluntary conduct;
- 6) *Restorative Justice* can be applied to all crimes that do not involve human victims.

In the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice in Article 6, it also regulates the Procedures for Adjudicating Criminal Cases Based on Restorative Justice. The difference between ordinary court handling and *Restorative Justice* is in the approach to case settlement. Ordinary court handling focuses on punishment, such as imprisonment or fines and does not provide sufficient space for victims to be heard and accommodated. *Restorative Justice* focuses on recovery, reconciliation and restoration of damaged relationships, prioritizes justice and balance for the perpetrator and victim, provides space for the victim to be heard and accommodated, and provides an opportunity for the perpetrator to make up for the harm caused to the victim.

Thus, *Restorative Justice* provides an opportunity for lawbreakers to become good people again through non-formal channels by involving community resources, and also seeks to provide justice to children who are victims of criminal acts to law enforcement officials. The reality shows that many people prefer to resolve their criminal cases outside the system. Settlements outside the system are either carried out by the parties (perpetrators and victims independently) or by involving law enforcement officers.



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Dissatisfaction with the Criminal Justice System is therefore related not only to the case handling mechanism and administration, but also the end result of the process.

There is a view that often the measure of success in law enforcement is only marked by the success of bringing a suspect to court and then sentenced. The measure of success of law enforcement by law enforcement officials should be characterized by the achievement of justice values in society. The Police Institution is one of the law enforcement agencies that is expected to carry out this *restorative justice* mechanism. The purpose of the establishment of the Indonesian National Police is to realize public security and order, uphold the law, order and the implementation of protection, protection and community service, as well as the fostering of community tranquility by upholding human rights. Thus the Indonesian National Police is a state instrument that plays a role in maintaining security and public order, enforcing the law and providing protection, protection and services to the community in the context of maintaining public security.

Various problems that often occur in the application of *Restorative Justice*, namely, if there is no good communication in deliberations and between the two parties resulting in criminal cases committed by children cannot lead to peace between the perpetrators and victims, with the non-achievement of peace between the two parties causing the process of applying *Restorative Justice* cannot run perfectly. In addition, if there has been an agreement in *Restorative Justice* between the perpetrator and the victim but in a condition the perpetrator cannot carry out his obligations to the victim, then what is the impact on the victim who should get his rights as a legal protection. The regulations governing *Restorative Justice* do not explain how if the agreement in *Restorative Justice* cannot be implemented. So in this case according to researchers there is a legal vacuum.

Other factors that also occur are the lack of coordination between institutions, limited facilities and infrastructure in terms of handling case settlement. This certainly



makes children who are victims of criminal acts experience many obstacles in the process of seeking justice which should be through *Restorative Justice* children who are victims of criminal acts can obtain legal protection.

## **2. RESEARCH METHODS**

The type of research used is normative legal research. This normative research is conducted to examine and study the law as norms, rules, legal principles, legal principles, legal doctrines, legal theories, and other literature to answer the legal problems studied (Muhaimin, 2020). The approaches used are statutory, conceptual, and case approaches. This statutory approach is an approach to reviewing and analyzing laws and regulations related to the legal issues being studied (HS & Nursyahbani, 2019). In other words, the approach is carried out by examining the laws and regulations that are relevant to the problem under study.

Then the conceptual approach is a conceptual framework which is a description of the relationship between the concepts to be studied (Amiruddin & Asikin, 2006). This approach is done by examining the concepts and views of experts related to the problems to be studied. While the case approach is used to study the application of legal norms in legal practice. This approach is carried out by examining cases that have permanent legal force.

## **3. DISCUSSION**

### **Restorative Justice as a Mechanism of Legal Protection for Children who are Victims of Criminal Acts**

The *juvenile criminal justice system* is one of the sub-systems within the broader criminal justice system. The important point to emphasize is that the juvenile criminal justice system is different from the adult criminal justice system in various aspects. Juvenile criminal justice includes all activities of investigation and termination of cases

involving the interests of children. The emphasis or focus on the interests of the child must be the center of attention in juvenile criminal justice.

Children are a gift entrusted by God Almighty, where the child must be protected, educated and guarded from acts of violence or discrimination. In terms of state life, children are the next generation of the nation in the future, of course, they need to get good attention and education so that their potential can be channeled and developed properly so that they will grow and develop into human beings who have quality human resources.

In the 1945 Constitution Article 28 B mandates that every child has the right to live, grow, and develop and is entitled to protection from violence and discrimination, it can be concluded that children are a priceless treasure for parents, who must be protected, guarded from threats that can hinder the growth and development of children and must be educated as well as possible to become quality human resources as the next generation of the nation.

To fulfill the state's obligation to respect, fulfill and protect children's rights, special laws are established for children, namely Law of the Republic of Indonesia Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning child protection and Law of the Republic of Indonesia Number 11 of 2012 concerning the Child Criminal Justice System. This includes the protection of child victims.

Law No. 11/2012 on the Juvenile Criminal Justice System has changed the paradigm of handling children in conflict with the law. The most fundamental substance in the Law on the Juvenile Criminal Justice System is the explicit regulation of restorative justice and through the diversion stage which is intended to avoid and keep children away from the judicial process, so as to avoid stigmatization of children in conflict with the law and it is hoped that children can return to their social environment reasonably.

As stipulated in the Convention on the Rights of the Child, every child has the right to live, grow, develop, receive protection and participate. The state is obliged to ensure that all Indonesian children have their rights fulfilled and receive protection from all forms of discrimination. Parents, organizations and the state must always make the best interests of the child the main consideration in planning budgeting implementation and enforcing and evaluating child protection.

*Criminal justice* system is a term that shows the mechanism of work in crime prevention by using the basic system approach (Mulyadi, 2007). The term *Criminal Justice System* has now become a term that shows the mechanism of work in crime prevention using a systems approach (Atmasasmita, 2011).

The mechanism of criminal justice implementation is a series of processes in which law enforcement officials work from the process of investigation, investigation, arrest, detention, prosecution, to examination in court. In other words, the mechanism of criminal justice implementation is a mechanism for the operation of criminal procedural law to realize the objectives of criminal justice. Mardjono argues that the *criminal justice system* is a system in a society to tackle the problem of crime. Overcoming is defined as controlling crime to be within the limits of tolerance of society (Arief, 2011).

Law is not just to create order, more than that the law must provide a sense of justice for the community. The law will not automatically give birth to justice but for the achievement of justice the law must be enforced. A law enforcement system that has good values is concerned with the integration between values and rules and with real human behavior. In essence, the law has an interest in ensuring the social life of society, because law and society have an interrelation.

Law enforcement in Indonesia can be said to be "*communis opinio doctorum*", which means that, the current law enforcement is considered to have failed in achieving the objectives required by the Law (Rizky, 2008). Therefore, an alternative law

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enforcement is allowed, namely the *Restorative Justice System*, where the approach used is a socio-cultural approach and not a normative approach.

*Restorative justice* has become a very popular discourse amidst the saturation of people who see that formal law is dominated by positivism and cannot optimally accommodate people's sense of justice because of legal certainty (*Rechtssicherheit*). *Restorative Justice* is present by offering a non-formalistic settlement that only emphasizes the formal legalistic side, but cannot be done by mediation between the perpetrator and the victim, reparations (the perpetrator fixes everything that was damaged), victim-offender conferences (involving the families of both parties and leaders in the community), *victim awareness work* (an effort from the perpetrator to be more concerned about the impact of his actions). In addition, the current criminal justice system is no longer considered to provide protection of human rights and transparency to the public interest.

*The restorative justice* approach has now become the dominant model of the criminal justice system in the development of history and human civilization. The settlement of cases with a restorative justice approach is generally carried out by applying compensation by the perpetrator and his family to the victim and/or his family and to the community. Restoration carried out by the perpetrator can also be in the form of compensation, social work or carrying out certain improvements or activities in accordance with the joint decision agreed upon by all parties in the meeting. Thus, it is appropriate to say that the restorative justice model is a process outside of formal justice that is carried out by taking into account the broader effects on victims, perpetrators and society itself.

According to Komariah E. Sapardjaja, the basic principles contained in the restorative justice approach are:

- a. The justice demanded is that there is a remedy for the injured party.
- b. Anyone involved and affected by a criminal offense should have the opportunity to fully participate in the follow-up.

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**LEX JOURNAL: KAJIAN HUKUM & KEADILAN**

- c. The government plays a role in creating public order while the community builds and maintains peace (Prayitno, 2012).

In relation to the enforcement of Criminal Law, *restorative justice* is an alternative to the settlement of criminal cases, which originally focused on punishment, into a dialogue and mediation process involving the perpetrator, victim, perpetrator's family/ victim's family, and other related parties, to jointly create an agreement on a fair and balanced settlement of criminal cases for both victims and perpetrators by prioritizing recovery back to its original state, and restoring good relations in society. The basic principle of *restorative justice* is the recovery of victims who suffer from crime by providing compensation to victims, peace, perpetrators doing social work and other agreements.

A fair law in the framework of *restorative justice* is certainly not one-sided, impartial, not arbitrary, and only sides with the truth in accordance with applicable laws and regulations and considers equal compensation rights and balance in every aspect of life. One of the other objectives of the application of *restorative justice* is the phenomenon of prison overcrowding in Indonesia which has occurred for many years.

*Restorative justice* is an alternative or another way of criminal justice by prioritizing an integrated approach of the offender on the one hand and the victim/ community on the other hand as a unit to find solutions and return to good relations in society. In the traditional concept, victims are expected to remain silent, accept and not interfere in the criminal process. Fundamentally, the idea of *Restorative justice* is to reorganize the role of victims, from passively waiting and watching how the criminal justice system handles 'their' crime, to be empowered so that victims have the personal right to participate in the criminal process (Rizky, 2008).

In the concept of *restorative justice*, handling crimes or criminal offenses that occur is not only the responsibility of the state but also the responsibility of the community. Therefore, the concept of restorative justice is built on the understanding

that crimes or criminal offenses that have caused losses (both for victims and the wider community) must be restored, both the losses suffered by victims and the losses suffered by the community.

Thus, the relevance and involvement of community members is needed to help correct mistakes and deviations that occur within the community concerned. Giving appreciation and respect to his family and community victims and/or by obliging the perpetrator and/or his family to make restitution for the consequences of the crime he has committed can be in the form of compensation, social work or carrying out certain improvements or activities in accordance with a joint decision agreed upon by all parties in a meeting conducted by the community who are considered to be able to mediate and resolve these problems.

In addition to being in accordance with the values contained in Pancasila, the restorative justice approach that upholds harmony, the value of harmonization, balance, peace, tranquility, equality, brotherhood, and kinship is also in line with the values contained in customary law. In the concept of restorative justice, handling crimes or criminal offenses that occur is not only the responsibility of the state but also the responsibility of the community. Therefore, the concept of restorative justice is built on the understanding that crimes or criminal offenses that have caused losses (both for victims and the wider community) must be restored, both the losses suffered by victims and the losses suffered by the community. Thus, the relationship and involvement of community members is needed to help correct mistakes and irregularities that occur within the community concerned through a restorative approach, which is a process of resolving criminal acts that aims to restore the situation which includes compensation for victims through certain methods agreed upon by the parties involved in it.

The main principle of resolving criminal offenses through a restorative approach is a settlement that is not just a tool to encourage someone to compromise on the creation of an agreement, but the approach must be able to penetrate the hearts and

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minds of the parties involved in the settlement process in understanding the meaning and purpose of a recovery and the sanctions applied are sanctions that restore and prevent. Giving appreciation and respect to victims and/or their families and the community by obliging the perpetrator and/or his family to restore the consequences of the criminal offense he has committed in the form of compensation, social work or carrying out certain improvements or activities in accordance with the joint decision agreed upon by all parties in the meeting.

According to Rufinus Hotmaulana Hutaauruk, the process of overcoming criminal acts thus occurs a shift in thinking from traditional punishment models (retaliation and rehabilitation) to punishment models that provide justice, namely by providing access to justice itself, especially justice aimed at community justice at large. This is important to note for both academics and legal practitioners because this value is the starting point or the basis for the birth of the concept of restorative justice (Walintukan et al., 2021).

Restorative justice approach is a new paradigm in responding to criminal offenses. In the perspective of restorative justice approach, criminal offense is understood as a dispute or conflict that damages the relationship between individuals and society (not just a violation of the law where as a consequence the perpetrator will face the state. In other words, the victim of a criminal offense is not the state but the individual. Therefore, crime creates an obligation to repair damaged relationships due to the occurrence of a criminal offense. According to Van Ness, there are several models of approaches as alternative options that can illustrate the place and position of the restorative justice approach in the criminal law system, namely as follows:

- a. *Unified System*: In a society increasingly aware of the importance of equality under the law. Christie's assertion that the state has stolen the conflict from the parties provides an option for envisioning restorative approaches replacing criminal justice. To return the conflict to its rightful owner requires a completely different approach to managing the delivery of justice processes that allow victims and offenders to determine the outcome of the conflict themselves and the state does not have absolute rights over the conflict, so based on this view the processes of resolving criminal offenses through



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**P-ISSN: 2581-2033**

**LEX JOURNAL: KAJIAN HUKUM & KEADILAN**

restorative approaches should be able to replace all processes in the criminal justice system in general.

- b. *Dual Track System*: The Dual Track System model can be created as an alternative companion to the existing criminal justice system. In a dual track model, the restorative process and the traditional process would coexist together where the parties can determine the course of a particular case. If an agreement to enter the restorative process cannot be reached (by consensus of all parties concerned) then the criminal justice court system will still be available. So in this case the restorative approach is placed in a primary position while the formal institutions are a supporting element.
- c. *Safeguard System*: This is a model designed to deal with crime through a restorative approach where restorative programs will be the main means of dealing with crime problems. This means that there will be a major shift from the traditional criminal justice system which will be reduced to a restorative justice system. However, certain cases will continue to be dealt with by the contemporary criminal justice system (cases that are deemed unsuitable to be dealt with by a restorative process or program).
- d. *Hybrid System*: In this model the process of determining or determining a person's guilt is processed in the general criminal justice system and then in the process of determining sanctions, the concept of restorative approaches can be used to determine the type of sanction. In the hybrid system, both restorative approach responses and contemporary criminal justice responses are seen as part of the normative part of the justice system (Walintukan et al., 2021).

From the restorative approach, there are general views on restorative, among others:

- a. The goal of justice must be interpreted as the restoration of the situation and the compensation of the losses suffered by the victim.
- b. The purpose of restitution and compensation is part of a comprehensive process of repairing all relationships that have been damaged, including to prevent similar crimes from recurring.
- c. The definition of a criminal offense is not just a violation of the law against the state, but is also interpreted as an act that damages the relationship between individuals and individuals, and society and individuals.
- d. A crime is an act that causes harm to the victim that must be remedied.
- e. The burden of proof and resolution of criminal offenses is not solely on the state, but on individuals and society.
- f. The settlement of criminal offenses must be resolved in a fair and balanced manner, through a forum for discussion and dialogue that is constructive for

the parties involved, especially victims and perpetrators who have expressed regret or their respective families.

- g. The recovery process aims to resolve conflicts and prevent criminal behavior through a series of optional meetings between the family or community government and a representative tailored to the complexity of the problem and other practical resolution processes. Such meetings are necessary to make joint decisions and ensure that the process is safe, respectful and can guide the parties through critical issues. The meeting is also intended to find solutions for dealing with the aftermath of the crime including ensuring the welfare or material satisfaction of the victim, reaffirmation that they will not be blamed, attention to the victim's emotional needs, resolution of any conflicts between the victim and the offender (either because of the crime itself or pre-existing ones), resolution of conflicts between family members or with the community, resolution of difficulties between the offender and his or her family and friends as a result of the crime, such as embarrassment about getting to know the offender, and giving the offender the opportunity to absolve guilt through requests for compensation and compensation.
- h. The recovery process also includes addressing the reasons/causes of the crime, creating a rehabilitation plan, an agreement between family members and the community that exists based on a support system for the offender, to ensure that he/she is able to adhere to the plan.
- i. The role of government is to maintain public order, while the role of society is to create maintain peace (Prasetyo & Barkatullah, 2012).

The concept of *Restorative justice* theory offers answers to important issues in the settlement of criminal cases, namely (Rizky, 2008):

- a. Criticism of the *criminal justice system that disempowers individuals*;
- b. Eliminating conflict, especially between the perpetrator and the victim and the community (*taking away the conflict from them*)
- c. The fact that the feelings of helplessness experienced as a result of the criminal offense must be overcome *in order to achieve reparation*.

*Restorative justice* practices and programs are reflected in its goal of addressing crime with (Rizky, 2008):

- a. *Identifying and taking steps to repair harm*;
- b. *Involving all stakeholders*;
- c. *Transforming the traditional relationship between communities and their governments in responding to crime*.

Muladi stated that the *Restorative Justice* model has several characteristics, namely (Joedo & Nugroho, 2009):

- a. Crime is defined as the violation of one person against another and is recognized as a conflict;
- b. It focuses on solving problems of future responsibility and liability;
- c. The normative nature is built on dialog and negotiation;
- d. Restitution as a means of repairing the parties, reconciliation and restoration as the main goal;
- e. Justice is formulated as a relationship of rights, judged on the basis of results;
- f. Target attention on repairing social harms;
- g. The community is the facilitator in the restorative process;
- h. The role of victims and perpetrators of crime is recognized, both in the problem and the resolution of victims' rights and needs. Perpetrators of criminal acts are encouraged to take responsibility;
- i. The offender's responsibility is formulated as a result of understanding the act and to help decide what is best;
- j. Crime is understood in a comprehensive, moral, social and economic context; and
- k. Stigma can be removed through restorative action.

Justice in *restorative justice* requires efforts to restore/restore the loss or consequences caused by the criminal offense, and the perpetrator in this case is given the opportunity to be involved in the recovery effort, all in the context of maintaining public order and maintaining a just peace.

Marshal as a legal expert, states that restorative justice is a process where all parties concerned in an offense come together to resolve collectively how to deal with the consequences of the offense and its future implications (Foley, 2014). Restorative justice is an integrated unity between the victim, the offender, and the community involved as a unit to find a solution with the aim of restoring the relationship between the offender and the victim by still stating that the violation of the law in this context is an incorrect action with the mechanism that has been referred to but still emphasized to return to good community relations.

In essence, *restorative justice* is an offer to return to a justice system that has relatively recently lost its role, due to continuous intervention by the state and influential interest groups (Syaufi, 2020). *Restorative justice* is used as an alternative method of resolving cases that brings together all stakeholders affected by losses such as victims.

*The restorative justice* approach cannot be used as a way out of resolving children's cases because in addition to not being able to protect the victim, this will result in the emergence of thoughts or assumptions that what the perpetrator did can be resolved with only compensation and the perpetrator is free to roam anywhere. In addition, there is no guarantee of safety for the victim if there is a threat from the perpetrator.

A *restorative justice* mechanism in general is a process in which all parties involved in an offense, such as the victim, offender, and community, come together to seek a just resolution that focuses on restoration rather than punishment. It involves dialogue and mediation to meet the needs of all parties, with a focus on victim recovery and offender accountability. The following details the stages of the *restorative justice* process starting from:

1. Mediation Process

*Restorative Justice* begins with a mediation process between the victim, offender, and other relevant parties (such as family, community leaders, or investigators).

2. Active Participation

All parties involved are expected to be active in the mediation process to express their views, needs and wishes.

3. Finding Solutions Together

Through dialog, all parties together seek solutions that suit the needs of victims, the accountability of perpetrators, and the restoration of the affected environment.

4. The deal

After reaching an agreement, all parties involved sign an agreement containing the agreed terms, such as compensation, community service, or a commitment not to reoffend.

5. Control and Monitoring

Agreed agreements can be supervised and monitored by the parties involved, including law enforcement, to ensure that they are kept.

6. Victim Recovery

*Restorative Justice* focuses on restoring the victim, both materially and non-materially, through various forms of redress, services, or other necessary support.

7. Perpetrator Liability

The perpetrator is also responsible for restoring the relationship with the victim, for example by apologizing, providing compensation, or doing social work that benefits the victim and the community.

8. Case Termination (if eligible)

If all parties agree and fulfill the requirements set by the relevant regulations, termination of the case may be considered as a result of the application of *restorative justice* (Dewi, 2023).

#### 4. CONCLUSION

In its implementation, *Restorative Justice* can be carried out if the formal and material requirements have been met, if there has been an agreement in *restorative justice* then monitoring and evaluation must be carried out to ensure that the agreement is implemented and the rights of the victim can be fulfilled. What is equally important is that the restorative justice process must be supervised by trained mentors who have knowledge of *restorative justice* and must be carried out with fair and transparent procedures, so that all parties feel treated fairly.

*Restorative Justice* cannot be used as a way out of solving children's cases because in addition to not being able to protect victims, this will result in the emergence of thoughts or assumptions that what the perpetrator did can be resolved by only compensating and the perpetrator is free to roam anywhere, therefore *restorative justice* in responding to criminal acts must identify and take steps to repair the harm created, Therefore, *restorative justice* in responding to criminal acts must identify and take steps to repair the harm created, involve all parties involved, and there is an effort to transform the existing relationship between the community and the government in

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responding to criminal acts, so that *restorative justice* does not focus on retaliation for the perpetrators of criminal acts, but rather seeks a fair settlement by emphasizing recovery back to its original state.

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