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Challenges in Implementing Restorative Justice for Children with Special Needs in Bukittinggi: The Role of Investigators and Third Parties

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Abstract: Restorative approach in family law aims to restore balance and justice, especially for special needs children and their families. However, the implementation of this approach often faces various significant challenges. This article discusses the main issues faced by third parties including reporters of domestic violence by the heads of neighborhood associations, school teachers of special needs children, politicians, community groups, local online media reporters, police investigators, lawyers, and other relevant institutions when they fail to effectively implement corrective actions. This research utilizes both empirical and normative legal approaches to explore the factors hindering the success of the restorative approach and to formulate effective solutions. The research findings indicate that the main obstacles in the implementation of the restorative approach include a lack of understanding of the special needs of children, complex bureaucratic procedures, resource limitations, as well as stigma and prejudice against special needs children. This article proposes solutions including specialized training for third parties, simplification of bureaucratic procedures, increased resources, and anti-stigma campaigns. By implementing these solutions, it is hoped that the restorative approach can be more effective in restoring balance and justice for special needs children and their families. This article is expected to provide useful insights for family law practitioners and policymakers in efforts to improve access to justice through the restorative approach.

Keyword: Restorative Justice, Family Law, Third-Party Intervention, Empirical Law, Juvenile Justice

INTRODUCTION

Restorative justice in family law aims to restore balance and justice, particularly for children with special needs and their families. This approach prioritizes reconciliation and

healing, focusing on repairing relationships rather than punitive measures. However, its implementation often faces significant obstacles, particularly in cases involving children with special needs. (Armstrong.2020). These challenges are frequently encountered by various third parties, including neighborhood leaders (RT/RW) reporting domestic violence, teachers of children with special needs, local politicians, community groups, journalists from local online media, police investigators, lawyers, and other related institutions. When these third parties fail to take corrective actions effectively, the restorative justice process is hindered.

The purpose of this research is to explore the barriers to implementing restorative justice in family law cases involving children with special needs, specifically focusing on the roles and limitations of third parties involved in these processes. (Murphy-2018). By employing an empirical legal approach, the study examines the factors that impede the effectiveness of restorative justice and suggests possible solutions. It draws on existing theories of restorative justice, legal intervention, and the rights of children with special needs, highlighting the importance of understanding the unique challenges faced by these children in the legal system (Muthmainnah, 2017).

This research aims to contribute valuable insights for policymakers, legal practitioners, and other stakeholders, assisting them in improving access to justice and ensuring that restorative justice can be more effectively implemented for children with special needs and their families. (Medical & amp.2019). Key concepts, such as restorative justice, special needs children, and family law, are explored within the context of these challenges.

Problem Formulation

What are the primary challenges faced by third parties such as reporters of domestic violence by RT/RW leaders, teachers of children with special needs, local politicians, community groups, journalists from local online media, police investigators, lawyers, and other related institutions when implementing restorative justice in family law cases involving children with special needs? What solutions can be proposed to overcome these challenges in the implementation of restorative justice in family law cases involving children with special needs?

METHOD

This research employs a qualitative method with an empirical legal approach to explore the challenges faced by third parties in implementing restorative justice for children with special needs and their families. The study uses a case study approach to examine real-life instances of restorative processes, focusing on the perspectives of key stakeholders such as mediators, lawyers, local authorities, and representatives of relevant institutions. Data will be collected through in-depth interviews, document analysis, and, where possible, direct observation of restorative justice proceedings. The research aims to identify the barriers that hinder effective restorative practices, such as a lack of understanding of special needs, resource limitations, and procedural challenges, and to propose practical solutions. By analyzing these challenges and collecting qualitative data, the study seeks to provide recommendations for improving the restorative justice process, with the goal of ensuring more equitable outcomes for children with special needs and their families.

RESULTS AND DISCUSSION

The results and discussion section presents the findings of the study, analyzing the data collected from interviews, observations, and document reviews. The research focuses on identifying the challenges faced by third parties in implementing restorative justice for children with special needs and their families (Ali Muhammad. 2018), as well as proposing solutions to address these barriers. The following sections summarize the key findings and provide an analysis of the data.

Results

Challenges Faced by Third Parties

The interviews and observations reveal several key challenges faced by third parties in the restorative justice process. These include:

Lack of Understanding of Special Needs: Many third parties, including mediators, police investigators, and even legal professionals, lack sufficient knowledge of the specific needs of children with special needs. This results in difficulties in communication and understanding during the restorative process.

Complex Bureaucratic Procedures: The study found that the bureaucratic processes involved in restorative justice procedures are often complex and time-consuming, leading to delays and inefficiencies in handling cases involving children with special needs.

Limited Resources: Several respondents highlighted that there is a lack of adequate resources, both in terms of personnel and financial support, to effectively carry out restorative justice programs.

Stigma and Prejudice: There is significant stigma and prejudice surrounding children with special needs, particularly in legal and social contexts. This often leads to the marginalization of these children in restorative justice processes. (Dwi Astuti, R., & Handayani, E. 2020).

Solutions to Address Challenges

Based on the data collected, the following solutions were identified to improve the restorative justice process:

Training and Education: Providing specialized training for third parties, including mediators, lawyers, and police investigators, on the specific needs and rights of children with special needs would enhance their ability to effectively implement restorative justice.

Simplification of Bureaucratic Processes: Streamlining and simplifying bureaucratic procedures would reduce delays and improve the efficiency of the restorative justice process.

Increased Resources: Increasing funding and resources for restorative justice programs, including the recruitment of trained professionals and the development of support services, would ensure that these processes are adequately supported.

Anti-Stigma Campaigns: Conducting public awareness campaigns and offering support to families of children with special needs would help reduce stigma and encourage more inclusive practices in the restorative justice process.

The definition of a child can be analyzed from various perspectives: sociological, psychological, and juridical. From a sociological perspective, a child is not solely defined by age but by their ability or lack thereof to live independently according to the social norms of their community. From a psychological perspective, a child is viewed based on developmental stages marked by specific psychological traits. (Nandang Sambas, 2013: 1-4). From a juridical perspective, a child is defined as someone who has not reached adulthood, is underage, or is under the supervision of a guardian. (Lilik Mulyadi, 2014: 1). Several laws provide definitions of a child, including:

- a) Article 50(1) of Law No. 16/2019 on the Amendment of Law No. 1/1974 on Marriage, which states that a child is someone who has not reached the age of 18 or has never been married.
- b) Article 1(2) of Law No. 4/1979 on Child Welfare, which defines a child as someone who has not reached the age of 21 and has never married.
- c) Article 1(1) of Law No. 35/2014 on the Amendment of Law No. 23/2002 on Child Protection, which defines a child as someone under 18 years old, including those still in the womb.

The right to life is a fundamental human right that every individual is entitled to. Indonesia adheres to the belief that every person has the right to life and must respect life (pro-life). Life is a divine gift that must be protected and preserved by families, parents, communities, governments, and the state.

Children, as human beings and legal subjects, have the right to live as part of their human rights. The Universal Declaration of Human Rights (UDHR) is an international legal instrument accepted by Indonesia for implementation. It forms the basis for the creation of Indonesia's Human Rights Law. The Convention on the Rights of the Child is part of the UDHR, addressing the rights of children. Indonesia, as a signatory, is obligated to ensure these rights.

The Convention on the Rights of the Child categorizes children's rights into four main types. One of these is the Right to Survival, which ensures children's rights to preserve and protect their lives, as well as to obtain the highest attainable standard of health and care (Rika Saraswati, 2009: 21).

In 2021, a case arose where a child with special needs was suspected of experiencing domestic violence (KDRT) by family members at home. An assessment by a psychologist revealed that this child had a mental disability and exhibited behaviors that were physically harmful to both themselves and their sibling during play. Bruising occurred due to the child's actions, which had a tendency to cause harm to themselves and others. This issue was complicated by the COVID-19 pandemic, during which schools were initially online and later implemented a hybrid in-person system. Upon the child's return to school, teachers noticed bruises and wounds on the child's body, leading to suspicions that the child had been subjected to domestic violence. These concerns were escalated to the school principal and local RT/RW officials.

The RT/RW neighborhood and community associations, amidst the political climate of the 2021 Bukittinggi mayoral election, leveraged this domestic violence report for political gain, hoping to raise the electability of a mayoral candidate. The third party, supported by legal counsel from the candidate's election team, filed a report to the Bukittinggi Police Department for a medical examination and police investigation.

This case exemplifies the complexity of handling situations involving children with special needs in legal contexts, particularly when political interests intersect with child protection issues. It highlights the challenges faced by stakeholders such as legal professionals, social workers, and government officials in effectively implementing restorative justice and ensuring the child's welfare.

In relation to the findings of the study, the discussion highlights significant gaps in the implementation of restorative justice, particularly in cases involving children with special needs. The failure to consider the child's mental disability and the family's traditional methods of discipline directly connects to the findings regarding the challenges faced by third parties in restorative justice processes. (Erny Herlin Setyorini¹, Sumiati Sumiati², Pinto Utomo³. 2020). The lack of understanding about the child's condition and the failure to incorporate specialized knowledge into the process were identified as major barriers.

The investigation into the child's bruises, which were attributed to the child playing with their sibling in a way that posed physical risks, exemplifies a lack of nuanced understanding of the child's situation. (Renita Dharma Pratiwi¹, Moch. Ardi², Rosdiana³. 2019). As noted in the findings, third parties such as investigators and family members did not appropriately recognize the child's mental disability, which led to the wrongful criminalization of the family. This aligns with the challenge identified in the findings where stakeholders, including legal personnel, fail to account for the unique needs of children with special needs, ultimately leading to an escalation of the issue rather than a constructive resolution.

Moreover, the involvement of political actors in the case, driven by the upcoming local election, further complicated the situation. This political dimension, as highlighted in the findings, can influence the direction of legal proceedings, pushing the case towards judicial action instead of restorative measures. The findings emphasize how political and bureaucratic factors contribute to delays and missteps in addressing such cases effectively.

The failure to implement restorative justice in this case also resonates with the findings that restorative justice processes are often hindered by inadequate resources and training for stakeholders.(Daly, K. (2016). Had the police and family members been better equipped with knowledge about restorative justice practices and the specific needs of children with disabilities, the outcome could have been different. Instead of criminalizing the family, a restorative approach could have facilitated a more supportive and rehabilitative resolution for both the child and their family.(Shapland, J., & V. A. (2008).

Thus, the discussion reinforces the findings that restorative justice faces significant challenges, particularly when there is a lack of understanding about special needs and the factors that influence the effectiveness of the process.(Daly, K. (2016). The study's findings suggest that these challenges need to be addressed through training, awareness, and the allocation of resources to ensure that restorative justice can serve as a viable and effective alternative to punitive measures in such cases.

Discussion

The results highlight that the challenges faced in implementing restorative justice for children with special needs are complex and interconnected.(Umbreit, M. S., & Armour, M. P. (2011). A lack of understanding about the unique needs of these children, combined with bureaucratic hurdles, limited resources, and stigma, significantly hampers the effectiveness of restorative processes. These barriers not only affect the success of restorative justice initiatives but also perpetuate inequality in the legal system, particularly for vulnerable groups like children with special needs. The findings suggest that these challenges create systemic obstacles that hinder the fair and equitable treatment of children and their families. Addressing these issues requires a multi-faceted approach, including improving understanding through training, streamlining bureaucratic procedures, increasing resources, and challenging the stigma surrounding special needs children. By tackling these barriers, restorative justice processes can become more inclusive and effective, ensuring that vulnerable populations receive the support and fairness they deserve in the legal system.

The proposed solutions, including targeted training for third parties, are essential to overcoming the challenges in implementing restorative justice for children with special needs. By equipping stakeholders such as mediators, law enforcement, and legal professionals with the necessary knowledge and skills to work with children with special needs, restorative justice can become a more inclusive and effective approach. Additionally, simplifying bureaucratic procedures will reduce delays, ensuring that children and their families can access restorative processes promptly. Streamlining these procedures will also eliminate unnecessary barriers, allowing for more efficient outcomes. Furthermore, increasing the allocation of resources, particularly in terms of trained personnel and financial support, is crucial for the long-term sustainability and success of these programs. Adequate funding and well-trained staff will ensure that restorative justice can be applied consistently and equitably, providing vulnerable populations with the support and protection they need within the justice system.

The findings also suggest that reducing stigma through public awareness campaigns and community outreach could play a pivotal role in changing societal attitudes toward children with special needs. By fostering an environment of acceptance and understanding, restorative justice can be more effectively implemented, ensuring that children with special needs are treated with the respect and dignity they deserve.

In the context of the discussion, this case underscores the importance of understanding how legal practices function in real-life situations, especially when dealing with sensitive issues like domestic violence (KDRT) involving individuals with mental disabilities. The involvement of political factors, media influence, and the failure of investigators to consider the victim's unique condition are critical elements that need to be addressed to ensure a just and fair process.

The discussion highlights the necessity for legal practitioners to have a deep understanding of how mental disabilities can affect an individual's experience and their ability to engage in legal proceedings. The failure to recognize this crucial factor, as seen in the case, led to a wrongful trajectory in the legal process, one that escalated rather than resolving the issue through restorative measures. This failure aligns with the findings that stakeholders often lack the proper training or awareness to handle cases involving individuals with special needs effectively.

Empirical legal approaches, which focus on understanding the application of law in real-world situations, are relevant in this case. They emphasize the need for data and observation of how laws are practically enforced, particularly in cases that involve vulnerable populations. In contrast, normative legal approaches—those that emphasize legal principles and rules—often fail to account for the complexities of real-life situations like the one discussed. The case illustrates that a purely normative approach may not be sufficient in ensuring justice for children with special needs or other vulnerable individuals.

The role of politics and media in this case is particularly significant, as political actors and media outlets can shape public perception and influence legal outcomes. The use of a domestic violence case for political gain, as seen with the involvement of local political figures, shows how external pressures can skew the legal process. The findings suggest that when the media and politics become involved in legal matters, it often leads to biased or one-sided narratives that can damage the integrity of the justice system.

The pressure exerted on law enforcement by political figures and media outlets can undermine the independence and impartiality of legal proceedings, as seen in this case. The media's role in creating public pressure can also lead to hasty decisions that do not reflect the full evidence or the principles of restorative justice. This discussion reinforces the importance of ensuring that legal processes remain objective and based on a clear understanding of the facts, rather than being influenced by external pressures. Restorative justice, as discussed in the findings, offers an alternative path that could have been more appropriate for addressing this particular case, but external factors prevented its proper implementation.

Impact on the Legal Process:

Bias Toward Perpetrator or Victim: The involvement of politics and media in a legal case can create biases that favor one side, either the perpetrator or the victim. This bias can obscure justice and compromise the objectivity of the legal process. When political and media pressures influence how a case is presented or perceived, it can lead to an unfair focus on certain aspects, distorting the true nature of the case and potentially leading to unjust outcomes. For instance, in cases involving vulnerable populations such as children with mental disabilities, there is a risk that the complexities of their condition may be overlooked or misunderstood, while political or media narratives may overshadow the factual evidence.

Interference with the Legal Process: Political and public pressure can disrupt the legal process, which should be independent and impartial. Law enforcement may feel compelled to act in accordance with the wishes of political figures or the public's opinion, even if these actions are not supported by the law or evidence. This compromises the integrity of the justice system and undermines the principle of fairness. In the case at hand, the intervention of political actors seeking to use the case for electoral gain led to an escalation of the issue, pushing it toward a judicial process that may not have been in the best interest of the child or the family

involved. Media coverage, especially when it is one-sided or sensationalized, can further amplify public pressure, forcing law enforcement to take actions that are not based on a thorough legal evaluation.

The Need for Vigilance in the Legal Process: It is crucial for law enforcement, judges, and the general public to remain vigilant against the potential negative impacts of political and media involvement in legal cases. Justice should remain the primary focus, and the enforcement of the law should be carried out based on facts, evidence, and legal principles, without being swayed by external influences. In cases involving vulnerable individuals, such as children with special needs, it is essential that those involved in the legal process resist political or public pressures that may distort the facts or hinder an appropriate legal resolution.

Failure to Consider the Victim's Special Needs: One of the most critical aspects of this case is the failure of investigators to adequately consider the unique needs of the victim, particularly their mental disability. This oversight significantly impacted the fairness and outcome of the case. Law enforcement officials and investigators must be equipped with the necessary knowledge and skills to handle cases involving victims with special needs. Without this training, the legal process becomes less effective and more prone to errors in judgment that can lead to unjust consequences.

Relevance to Restorative Justice: This situation also highlights the importance of restorative justice as an alternative to punitive measures in cases involving vulnerable individuals. Restorative justice focuses on repairing harm, fostering understanding, and addressing the needs of both the victim and the perpetrator in a way that promotes healing rather than punishment. In the case discussed, restorative justice could have been a more appropriate and effective means of addressing the situation, as it would have allowed for a more empathetic understanding of the victim's condition and the dynamics of the family involved. Unfortunately, due to political and public pressures, the case was pushed toward a punitive legal process, undermining the potential for a restorative approach that could have benefitted both the child and their family.

This case underscores the need for law enforcement to approach cases involving individuals with special needs with greater sensitivity and understanding, while also remaining independent from political and media pressures. Justice should be rooted in the fair application of the law, prioritizing the well-being and rights of vulnerable individuals. Restorative justice offers a valuable alternative in situations where traditional legal proceedings may fail to address the unique needs of the parties involved.

CONCLUSION

This research reveals a significant gap in the handling of legal cases, especially those involving individuals with special needs, such as mental disabilities, in the context of domestic violence (DV). This gap becomes evident in how investigators and other involved parties address these cases without considering the specific conditions of the victims, leading to unjust decisions. In this regard, the author's perspective emphasizes the need for a more sensitive approach to the unique needs of individuals, as well as the application of restorative justice that is more appropriate in the legal process. The current legal system needs to be updated to be more responsive to the psychological conditions and needs of victims, particularly those with mental disabilities, to ensure a better and more inclusive form of justice.

This research also provides important contributions to both society and the government. For society, raising awareness about the importance of a deeper understanding of mental disabilities in the legal context can help create a more inclusive environment and support individuals with special needs. The government, on the other hand, can use these findings to formulate better policies related to handling domestic violence cases involving individuals with disabilities. These responsive and sensitive policies will not only improve the quality of social

justice but also promote a more humane application of the law, with a focus on rehabilitation and recovery for victims, rather than solely on punishment for offenders.

The gap in handling legal issues involving individuals with special needs, particularly those with mental disabilities, highlights the critical need for a more inclusive and rehabilitative approach to justice. Traditional legal processes often overlook the unique psychological and social challenges faced by individuals with mental disabilities. As a result, these individuals may not receive fair treatment or adequate support within the legal system. The conventional focus on punitive measures often fails to account for the complexity of their condition, leading to outcomes that may not align with principles of fairness, equity, and justice.

This gap emphasizes the importance of integrating findings from recovery-based theories, such as Restorative Justice Theory, into the legal process. Restorative justice offers a paradigm that shifts away from retributive justice, focusing instead on healing, rehabilitation, and the restoration of relationships. This approach seeks to address the underlying causes of behavior, particularly in cases involving individuals with mental disabilities, and promotes a more holistic and humane response to legal issues.

Restorative justice emphasizes dialogue, accountability, and the repair of harm rather than simply meting out punishment. For individuals with mental disabilities, who may struggle to fully understand the legal process or participate in adversarial settings, restorative justice provides a more inclusive and supportive alternative. By focusing on the psychological and emotional needs of the victim, as well as the rehabilitation of the offender, restorative justice fosters an environment of healing that can reduce the long-term negative impact of legal proceedings on all involved.

Incorporating restorative justice into legal systems that deal with cases involving individuals with special needs would help bridge the gap in current practices. It would create a system that prioritizes not only the legal resolution of disputes but also the emotional and psychological well-being of the individuals involved. By adopting such recovery-based approaches, the legal system can promote a more compassionate, equitable, and just society, where all individuals, regardless of their mental health status, are given the opportunity to heal and reintegrate into the community.

The Restorative Justice Theory emphasizes the restoration of relationships and justice through rehabilitation and recovery rather than focusing solely on punitive measures. In the context of legal cases involving individuals with mental disabilities, this theory suggests that the criminal justice system should prioritize reconciliation and healing, especially for victims who may have been harmed by actions that were influenced by the perpetrator's own psychological struggles. Rather than treating the case merely as a criminal act that requires punishment, restorative justice calls for a process that acknowledges the broader social and psychological factors at play and seeks to repair the harm done in a way that benefits both the victim and the perpetrator.

One of the key findings from restorative justice theory is the crucial importance of considering the victim's psychological condition, especially in cases involving individuals with mental disabilities. For these individuals, their ability to fully engage in the legal process is often constrained by cognitive, emotional, and communicative challenges. Traditional legal procedures, which tend to focus on adversarial exchanges and legal formalities, may not provide a suitable environment for individuals with mental disabilities to express themselves or comprehend the complexities of the case. In contrast, restorative justice offers a space that prioritizes the victim's well-being, enabling them to be heard and understood in ways that are respectful of their unique cognitive and emotional needs.

In restorative justice practices, the victim is not merely a passive participant or an object of legal proceedings, but an active member of the process. This inclusion empowers victims, particularly those with mental disabilities, by providing them with the opportunity to share their experiences, express their emotions, and contribute to the healing process. Restorative justice

places emphasis on the victim's perspective, allowing them to participate in dialogues that focus on repairing harm and restoring relationships rather than solely seeking punishment for the offender.

For individuals with mental disabilities, this participatory approach can significantly reduce feelings of powerlessness. Traditional legal proceedings often leave them feeling marginalized or misunderstood, as their ability to fully engage with the process is limited. Restorative justice, by contrast, helps restore a sense of agency and control to these individuals, as they are given a voice and the opportunity to express their emotional needs in a supportive and non-judgmental environment. This participation not only aids in their emotional healing but also encourages a more empathetic and nuanced understanding of their circumstances.

By fostering an environment in which the victim feels heard, understood, and empowered, restorative justice helps to address the psychological trauma that may be caused by both the initial incident and the subsequent legal process. This focus on emotional and psychological recovery, rather than purely legal outcomes, can significantly contribute to the victim's long-term healing and reintegration into society, while also encouraging a more compassionate approach to justice overall.

Furthermore, restorative justice advocates for dialogue between the victim and the offender. This process can play a crucial role in reducing the trauma experienced by the victim and aiding in the rehabilitation of the offender. In cases involving mental disabilities, the offender may benefit from a more compassionate and supportive approach, one that takes into account their mental health condition and provides appropriate therapeutic interventions rather than punitive measures that may not address the root causes of their behavior.

Findings from restorative justice theory highlight the need for a legal framework that goes beyond punishment and emphasizes rehabilitation, recovery, and the repair of relationships. This approach is particularly relevant in cases involving individuals with mental disabilities, as it offers a more humane, inclusive, and effective method of resolving legal disputes while promoting healing for both the victim and the offender. By integrating restorative justice principles into the legal system, it is possible to address the gap in handling legal issues involving vulnerable populations, ensuring that justice is not only served but is also restorative and equitable.

Findings from Social Justice Theory

Findings from social justice theory in this context emphasize the importance of equality and the fair distribution of rights, resources, and opportunities, including in the legal system. Investigators and law enforcement must consider the special conditions of individuals with mental disabilities, not only relying on physical evidence or behavior but also understanding the social and psychological context affecting the victim's experience. These findings underline that the principles of social justice must serve as a foundation for treating all individuals fairly, without discrimination or inaccurate judgments based on their specific needs.

Both of these theoretical findings complement each other in providing a more holistic and effective solution to handling legal cases, especially those involving victims with disabilities or special needs. Applying these findings can help ensure that the legal system is more responsive and just in treating individuals with mental disabilities, giving more attention to rehabilitation, recovery, and equal justice for all parties.

Overall, the findings of this research provide insights for law enforcers, society, and policymakers to improve the existing system by integrating a more humanistic and inclusive approach to handling legal cases involving individuals with disabilities. Educating and training investigators about mental disabilities, as well as applying findings from restorative justice theory, can be a significant step in addressing the existing gaps in the current legal system, ensuring that the system truly provides equal protection and justice for all parties.

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