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## Restorative Justice in Resolving Criminal Acts by Children

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**Abstract:** This research explores the implementation of Restorative Justice in resolving criminal acts committed by children within the Indonesian legal system. Restorative Justice offers an alternative approach to conventional criminal justice by emphasizing reconciliation between the offender, victim, and society through mediation and dialogue. The study adopts a normative juridical method, analyzing relevant laws, literature, and expert opinions, with a focus on the application of diversion as regulated by Law No. 11 of 2012 on the Juvenile Criminal Justice System. The findings reveal that Restorative Justice provides significant benefits, including minimizing the psychological impact of formal legal processes on children, promoting victim participation, and strengthening social cohesion. However, challenges remain in its implementation, such as limited understanding among law enforcement officials and inadequate resources. Strengthening training, public awareness, and inter-agency cooperation are essential to optimize Restorative Justice practices for child offenders in Indonesia.

**Keyword:** Restorative Justice, Juvenile Justice, Diversion, Child Offenders, Criminal Law

### INTRODUCTION

Children are national assets who have the right to grow and develop optimally. In the process of their growth, children are not free from the possibility of committing unlawful acts called criminal acts. In Indonesian criminal law, children in conflict with the law often face great risks to their psychological and social development due to the conventional judicial process. Therefore, the concept of Restorative Justice emerged as an alternative approach that focuses more on restoring the situation than on retaliation or punishment. According to Marlina (2009), Restorative Justice is a new paradigm in the juvenile criminal justice system that focuses on resolving cases through a process of dialogue and mediation between the perpetrator, victim, and community, so that a fair agreement is reached for all parties. This approach views criminal acts not only as violations of state law, but also as violations of individuals and social relationships. Marlina emphasized that in the context of children, this approach is much more humane because it takes into account the rights of children as perpetrators and victims. Fattah (2000) also explains that Restorative Justice is a process that involves all parties involved in a particular violation to jointly resolve the consequences of the violation and its implications for the future. This approach aims to restore the losses suffered by the victim, restore the disturbed relationship between the perpetrator and the victim, and restore the perpetrator so that he can return to society better.

In Indonesia, the principle of Restorative Justice began to gain legitimacy through Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). Article 1 number 6 of the SPPA Law states that Diversion is the transfer of the settlement of children's cases from the criminal justice process to a process outside the criminal justice system, one of which is carried out using the Restorative Justice approach. According to Barda Nawawi Arief (2007), Diversion is a real reflection of the application of Restorative Justice in the context of positive Indonesian law, which aims to avoid the negative impacts of the criminal justice process on children. Tony Marshall (1999), who is known as one of the pioneers of the Restorative Justice concept, defines it as "a process whereby all the parties with a stake in a particular offense come together to resolve collectively how to deal with the aftermath of the offense and its implications for the future." This definition emphasizes the active participation of all parties involved, namely the perpetrator, victim, family, and community, in finding a satisfactory and constructive solution. In its implementation, Restorative Justice has several main principles, namely: (1) admission of guilt by the perpetrator, (2) willingness of the victim to be involved in the process, (3) agreement between both parties regarding the form of recovery, and (4) the presence of a neutral facilitator to mediate the process. According to Daly and Immariageon (2001), the success of Restorative Justice is highly dependent on the ability of all parties to communicate openly and the good intentions to improve the situation. In the context of child perpetrators of crimes, the Restorative Justice approach is very relevant considering the characteristics of children who are still in the development stage. According to Jean Piaget (1950), children are in an immature phase of moral development, where their actions are often influenced by the environment, ignorance, and momentary impulses. Therefore, treating children as perpetrators of crimes who must be punished harshly is not the right solution, but will add to the psychological burden that can damage their future.

Furthermore, according to UNICEF (2006), the conventional criminal justice process tends to ignore the best interests of children and focuses more on the aspect of punishment. This has the potential to cause stigmatization, discrimination, and even repeated violence against children. Therefore, the application of Restorative Justice is seen as a more child-friendly approach, where children as perpetrators are given the opportunity to correct their mistakes in a more constructive way. In a study conducted by Zehr (2002), it was found that Restorative Justice is not only beneficial for children who commit crimes, but also for victims and the community. Victims feel more appreciated because they get the opportunity to express their feelings and needs directly. In addition, this process also strengthens social cohesion because it invites the community to play an active role in resolving conflicts. However, the application of Restorative Justice in resolving criminal acts by children is not free from challenges. According to Wiyono (2012), one of the main challenges is the lack of understanding of law enforcement officers and the community about the concept of Restorative Justice. In many cases, law enforcement officers still prefer the litigation route because it is considered more certain and in accordance with existing procedures. In addition, not all cases can be resolved through Restorative Justice, especially if it involves serious crimes or the victim refuses to reconcile. In addition to internal factors, there are also challenges from the regulatory and policy side. According to Supriyadi Widodo Eddyono (2013), although the SPPA Law has regulated the Diversion mechanism as a form of Restorative Justice implementation, its implementation in the field still faces various obstacles, ranging from the lack of trained human resources to the lack of supporting facilities for the implementation of Diversion. However, the implementation of Restorative Justice remains a step forward in the juvenile criminal justice system in Indonesia. This is in line with the principle of the best interest of the child which has been internationally recognized through the Convention on the Rights of the Child (CRC) which has been ratified by Indonesia through Presidential Decree Number 36 of 1990. In this principle, every decision and action concerning children must consider the best interests of the child.

## METHOD

This study uses a normative juridical method, namely legal research conducted by examining legal materials in the form of laws and regulations, legal literature, and expert opinions that are relevant to the topic of Restorative Justice in resolving criminal acts by children. The approaches used are the statute approach and the conceptual approach, which aim to analyze how the concept of Restorative Justice is regulated in Indonesian positive law and how it is implemented in practice. The data used in this study consists of primary data in the form of laws and regulations such as Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, as well as secondary data in the form of books, journals, articles, and relevant previous research results. Data collection techniques are carried out through library research, while data analysis is carried out qualitatively by interpreting the legal materials obtained to answer the formulation of the research problem.

## RESULTS AND DISCUSSION

### 1. Implementation of Restorative Justice in the Juvenile Criminal Justice System in Indonesia

The implementation of Restorative Justice in Indonesia has been formally implemented since the enactment of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). This law explicitly stipulates that every child case must be resolved through the Diversion process, as stated in Articles 6 to 15. Diversion is an effort to resolve children's cases outside the criminal justice process by involving perpetrators, victims, families, and other related parties to find a fair solution for all parties. The results of the study show that the implementation of Restorative Justice in various regions in Indonesia has begun, although it still faces many challenges. One example that can be raised is the implementation of Diversion at the South Jakarta District Court. In several cases involving children as perpetrators of minor crimes, such as minor theft and fights, the court succeeded in mediating between the perpetrators and victims so that a peaceful agreement was reached without continuing the process to the trial stage. This implementation is in accordance with the principle put forward by Tony Marshall (1999) that Restorative Justice involves all interested parties to jointly resolve conflicts resulting from criminal acts that have occurred. The perpetrator is given the opportunity to realize his mistake and repair the social relationships that have been disrupted, while the victim gets justice directly through an open dialogue process.

### 2. Advantages of Restorative Justice in Resolving Criminal Acts by Children

The Restorative Justice approach has various advantages compared to the conventional criminal justice system. First, this approach minimizes the negative impact of the judicial process on the psychological development of children. As stated by Marlina (2009), children who undergo formal legal processes tend to experience trauma, stigmatization, and can even worsen their deviant behavior. With Restorative Justice, children are still involved in the legal process but in a more persuasive and educational way. Second, Restorative Justice provides an opportunity for victims to actively participate in resolving cases. According to Zehr (2002), many victims feel more satisfied with the results achieved through Restorative Justice because they get the opportunity to directly convey their pain and needs to the perpetrator. They do not get this in the formal justice process which is more procedural in nature. Third, Restorative Justice strengthens social cohesion and prevents further conflict. The mediation process carried out not only resolves cases but also repairs broken relationships between perpetrators, victims, and the community. As expressed by Daly and Immarigeon (2001), one of the main strengths of Restorative Justice is its ability to rebuild trust in the community.

### 3. Challenges in the Implementation of Restorative Justice

Despite having many advantages, the implementation of Restorative Justice in Indonesia is not free from various obstacles. One of the biggest obstacles is the lack of understanding

of law enforcement officers regarding the concept and principles of Restorative Justice. Based on field research conducted in Jambi City, there are still many police officers, prosecutors, and judges who prefer to resolve cases through litigation because it is considered more "safe" procedurally. In addition, public awareness to participate in the Restorative Justice process is still low. In many cases, victims or their families reject peaceful resolution because they believe that justice can only be obtained through severe punishment of the perpetrator. This is reinforced by the opinion of Wiyono (2012) who stated that the success of Restorative Justice is highly dependent on the readiness of all parties to be actively involved and accept the results agreed upon together. On the other hand, not all children's cases can be resolved through Restorative Justice. The SPPA Law does regulate that Diversion only applies to criminal acts that are threatened with imprisonment of less than 7 years and are not a repetition of the crime. Thus, for serious cases such as murder or rape, the Restorative Justice process cannot be applied.

#### 4. Case Study: Implementation of Restorative Justice in Jambi City

To strengthen this discussion, the study also took a case study in Jambi City. Based on interviews with officers from the Community Empowerment, Women, and Child Protection Service of Jambi City, the implementation of Diversion in this city has been carried out since 2014. One of the most prominent cases was a fight between students that caused one of the victims to suffer minor injuries. Through mediation facilitated by Bapas (Correctional Center), both parties agreed to make peace. The perpetrator was given a social sanction in the form of an open apology and was required to undergo coaching at school for six months. The results of the mediation showed the success of the Restorative Justice principle, where both parties were satisfied with the settlement achieved. The victim felt that they had received justice because the perpetrator admitted their mistake and took responsibility, while the perpetrator had the opportunity to correct their mistake without having to serve a prison sentence that could damage their future. However, officers from Bapas Jambi also conveyed several obstacles faced, including the lack of facilitators who have good mediation skills, as well as limited budget for implementing Diversion. Therefore, they hope that there will be regular training for officers and increased support from local governments so that Restorative Justice can run more optimally.

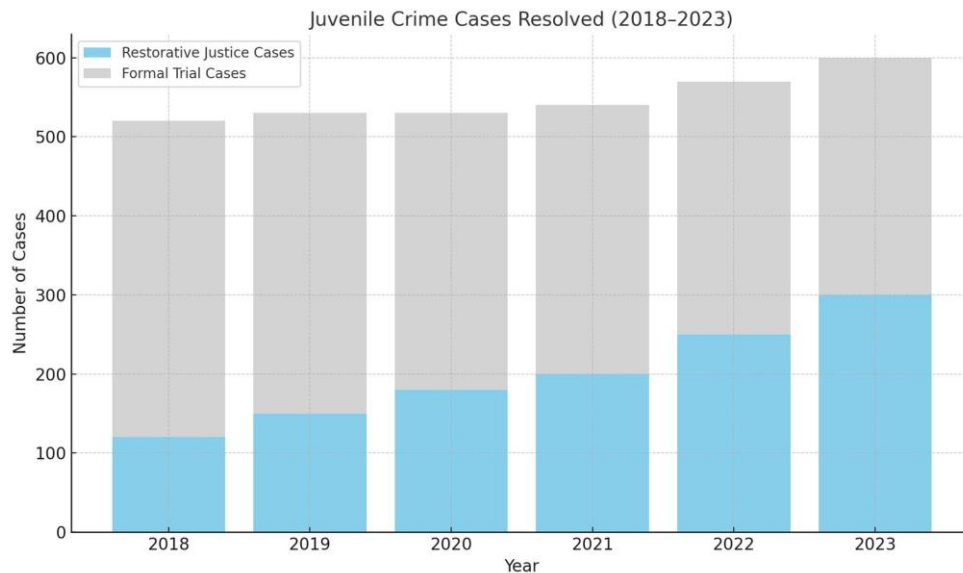
#### 5. Critical Analysis of Restorative Justice Policy

From the results of this study, it can be concluded that the Restorative Justice policy in resolving criminal acts by children in Indonesia has been running on the right track, but still requires many improvements. One aspect that needs to be strengthened is ongoing training for law enforcement officers so that they have a deep understanding of this concept. In addition, there needs to be wider socialization to the community so that they understand the benefits of Restorative Justice and do not always view resolving cases through peace as a form of weakening the law. The government also needs to strengthen supporting regulations, including providing an adequate budget for the implementation of mediation and rehabilitation for child perpetrators of criminal acts. According to Supriyadi Widodo Eddyono (2013), one concrete step that can be taken is to expand the scope of criminal acts that can be resolved through Diversion, as long as it does not involve very serious cases. In addition, it is necessary to build a strong network between law enforcement officers, child protection institutions, schools, and the community so that the Restorative Justice process runs synergistically.

#### 6. Implications of Restorative Justice for the Future of Children

The Restorative Justice approach has very significant implications for the future of children. By providing opportunities for children to correct mistakes through more educational methods, children are expected to grow into more responsible and integrated individuals. This is in line with the principle of the best interest of the child which emphasizes the importance of paying attention to the needs and future of children in every

legal process involving them. In addition, the application of Restorative Justice also strengthens the principle of restorative justice which is more oriented towards recovery than punishment. This is in accordance with the paradigm of modern criminal law which emphasizes peaceful and constructive conflict resolution, especially for children who are still in the psychological and social development stage.



## CONCLUSION

Based on the results of the research and discussion, it can be concluded that Restorative Justice is a very relevant and effective approach in resolving criminal acts by children in Indonesia. This concept emphasizes the peaceful resolution of cases through mediation between the perpetrator, victim, and community with the aim of restoring relationships that have been disrupted due to criminal acts. The application of Restorative Justice through the Diversion mechanism regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System has been proven to be able to minimize the negative impacts of the conventional justice process on children, as well as provide opportunities for children to correct mistakes without having to undergo punishment that damages their future. Nevertheless, the implementation of Restorative Justice in Indonesia still faces a number of challenges, such as lack of understanding of law enforcement officers, limited resources, and low community participation. Therefore, more serious efforts are needed from the government and all stakeholders to strengthen the implementation of Restorative Justice, both through training officers, socialization to the community, and provision of adequate facilities. With this strengthening, it is hoped that the juvenile criminal justice system in Indonesia can run more humanely, fairly, and in accordance with the principles of protecting children's rights.

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