

The Dilemma of Restorative Justice as Impunity for Perpetrators of Sexual Violence Against Children

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Abstract. *The increasing application of restorative justice in handling cases of child sexual violence in Indonesia has sparked controversy due to its potential to create impunity for perpetrators and neglect victims’ rights. This study aims to analyze the dilemma of restorative justice as a form of impunity in child sexual violence cases and to propose an ideal model that ensures the fulfillment of victims’ rights and the realization of substantive justice. The research employs a normative legal method using statutory and conceptual approaches. Primary and secondary legal materials are examined through qualitative analysis to identify inconsistencies between regulatory norms and practical implementation. The findings reveal that although restorative justice aims to restore victims and rehabilitate offenders, its misapplication especially when diversion is carried out without sufficient attention to the victim’s recovery may result in impunity and re-victimization. Furthermore, the lack of understanding among law enforcement officials, inadequate monitoring mechanisms, and social pressure contribute to ineffective victim protection. The study proposes a victim-centered restorative justice model that emphasizes comprehensive victim recovery, offender accountability, and active community participation supported by trained facilitators and strict supervision. The novelty of this research lies in offering a structured model for implementing restorative justice that balances victims’ and offenders’ rights, thereby ensuring substantive justice and preventing impunity in cases of child sexual violence.*

Keywords: *Impunity; Justice; Restorative; Sexual; Violence.*

1. Introduction

Children are a gift from God whose fundamental rights must be fully protected. As the future assets of the nation, children are entitled to protection from discrimination and violence, as mandated in Article 28B paragraph (2) of the Constitution of the Republic of Indonesia (UUD 1945). Law Number 35 of 2014 concerning Child Protection (UU Perlindungan Anak) defines a child as any individual under 18 years of age, including those still in the womb. Therefore, all elements of society, including families, communities, and the state, hold responsibility for ensuring children's care, protection, and welfare, particularly from all forms of discrimination and sexual violence (Yassin, 2025).

In reality, the State has not yet fully succeeded in fulfilling the mandate of the 1945 Constitution to protect children's rights from discrimination and violence, particularly sexual violence. This is evidenced by the persistently high number of cases of sexual violence against children, which has not shown a significant decline over the years. Data from the Online Information System for the Protection of Women and Children (SIMFONI-PPA) in 2023–2024 indicates that children remain the most dominant group as victims of sexual violence.

Table 1. Percentage of Children and Adults as Victims and Perpetrators of Sexual Violence, 2023-2024

Year	Status	Children (%)	Adults (%)
2023	Victims	62.6	37.4
2023	Perpetrators	17.7	83.3
2024	Victims	60.2	39.8
2024	Perpetrators	16.4	83.6

Source: Online Information System for the Protection of Women and Children (SIMFONI-PPA)

The table above indicates that in 2023–2024, children constituted the highest percentage of sexual violence victims. In 2023, children accounted for 62.6% of all victims, while in 2024 the figure was 60.2%. Conversely, perpetrators of sexual violence were predominantly adults, with adult offenders recorded at 82.3% in 2023 and increasing to 83.6% in 2024 (Sakinah, 2024). These data clearly demonstrate that children remain a highly vulnerable group to sexual violence.

Sexual violence against children refers to acts committed against a child's body or reproductive functions through coercion or threats, whether perpetrated by someone familiar or by a stranger. The perpetrator is not always an adult, as minors may also engage in sexually violent behavior. According to psychologist Gracia Ivonika, children who commit sexual violence are often influenced by prior victimization, exposure to negative environments, impulsive behavior, weak moral values within the family, and disharmonious relationships with parents (Lestari, 2021). Thus, the threat of sexual violence against children may also originate from peers, and child perpetrators are shaped by various interrelated factors contributing to such behavior.

Sexual violence against children has serious and long-term consequences. Psychologically, child victims may experience deep trauma that affects their mental health, including feelings of shame, depression, and post-traumatic stress disorder (PTSD), which can hinder their psychosocial development. Physically, forced sexual acts can cause injuries and disruptions to the reproductive organs and impair children's growth and development. Socially, victims tend to withdraw from others, face difficulties in social interaction, and lose trust in their surroundings (Asqia & Rahma, 2024).

Considering the severe and long-term impacts of sexual violence on children, the state has an obligation to ensure justice and guarantee legal protection for victims. One form of the state's intervention is the implementation of restorative justice as an alternative to the conventional criminal justice system. Restorative justice is a mechanism of resolving criminal cases by involving the victim, the offender, their families, and community representatives. This approach focuses on restoring the condition of both the victim and the offender, while still upholding the offender's accountability. Its primary objective is to reach a settlement agreement that seeks to restore the situation to its condition prior to the commission of the crime (Hafrida & Usman, 2024).

The principles of restorative justice have been regulated under various laws and regulations in Indonesia. First, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Second, the Decree of the Director General of the General Courts Body Number 16191/DJU/SK/PS.00/12/2020 concerning Guidelines for the Implementation of Restorative Justice. Third, the Attorney General Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. Lastly, the Indonesian National Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice (Sahputra, 2022).

In the context of criminal cases involving children, the implementation of restorative justice is operationalized through diversion, as regulated under Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Diversion is carried out in accordance with the principle of the best interests of the child, as mandated by the Convention on the Rights of the Child and the Child Protection Law. The primary objective of diversion is to resolve criminal cases outside the formal judicial process by fostering reconciliation between the victim and the offender, as well as to facilitate the restoration of conditions to their state prior to the commission of the offense (Sudewo, 2021).

However, in practice, the implementation of restorative justice often deviates from its core objective of prioritizing victim recovery. For instance, in cases of sexual violence committed by adults, Law Number 12 of 2022 on Sexual Violence Crimes (UU TPKS) explicitly prohibits the use of restorative justice, except when the offender is a minor. Such practices risk neglecting the rights of victims and fostering impunity. Impunity refers to a condition in which perpetrators escape legal accountability, resulting in victims being deprived of adequate redress (Putri et al., 2025). Impunity in cases of sexual violence against children has severe consequences for both victims and offenders, as it may lead to repeated offenses by the perpetrators and further denial of the victims' rights.

The application of restorative justice in cases of sexual violence involving children presents a significant dilemma, particularly in maintaining a fair balance between the rights of victims and offenders. In practice, disparities often arise regarding the fulfillment of justice and rights between both parties. Child victims are entitled to recovery, rehabilitation, and justice, while child offenders are entitled to legal protection and a second chance (Harahap et al., 2025). Although the rights of both victims and offenders are guaranteed by law, their implementation frequently becomes contradictory prioritizing the victim's rights may hinder diversion, whereas facilitating diversion fully for the offender risks generating impunity. This constitutes the core dilemma in implementing restorative justice in cases of child sexual violence.

A similar incident representing this phenomenon occurred in Pekanbaru in November 2023, when a 5-year-old boy was sexually abused by his classmate. The case came to light after the victim exhibited unusual behavior and admitted to being abused at school. However, the school's attempt to resolve the issue through restorative justice was deemed inadequate because it ignored the psychological condition of the victim and the perpetrator was simply transferred without being held accountable. As a result, the victim's parents reported the case to the police (Kumparan, 2024). A similar case also occurred in Palembang on September 1, 2024, where four underage perpetrators murdered and raped AA, a 13-year-old girl. The main perpetrator, IS (16), was detained, while the three other perpetrators, who were under 14 years old, were not detained (ICJR, 2024). This incident sparked controversy and public pressure to review the age of criminal responsibility, as the Juvenile Justice Law (UU SPPA) is perceived as failing to provide justice and deterrence for serious crimes committed by minors.

The two cases described above illustrate the dilemma in handling sexual violence involving minors. Imposing punishment on children through the conventional criminal justice system is not an appropriate solution. The traditional criminal justice approach tends to overlook the rights of children both as victims and as offenders, and it does not align with the principles of the Convention on the Rights of the Child, or the child protection principles enshrined in the Child Protection Law. Therefore, a more humane and recovery-oriented approach is required, such as restorative justice implemented in an appropriate and equitable manner.

However, the implementation of restorative justice in cases of sexual violence against children continues to present fundamental challenges, particularly regarding the imbalance in the protection of rights between child victims and child offenders, which creates a significant dilemma (ICRJ, 2024). On one hand, regulations require that the rights of child offenders remain protected in the interest of the child's best future. On the other hand, the rights of child victims are often overlooked, resulting in inadequate recovery and even the potential for impunity. This inconsistency between regulatory norms and practical implementation raises a serious dilemma that must be critically examined to ensure that substantive justice can truly be realized for all parties involved.

This statement is aligned with and reinforced by previous research findings that demonstrate similar tendencies. To avoid duplication of existing studies, the researcher includes two relevant prior studies in the literature review. One of these is the research conducted by Novi, E. P., Annisa, F., and Wahyu, F. R. (2025) entitled "A Critical Review of the Implementation of Restorative Justice in Child Rape Cases within the Indonesian Criminal Justice System." The primary distinction of that study lies in its emphasis that restorative justice should not be applied in child rape cases, as it has the potential to neglect the rights of victims and allow offenders to be released without proportional accountability.

Furthermore, the study conducted by Amran Romi Sihombing (2025), entitled "Restorative Justice for Child Rape Crimes Committed by Juvenile Offenders from the Perspective of the Child Protection Law," also serves as a relevant reference. The primary distinction between this study and the present research lies in the focus of the analysis. Amran's study emphasizes that restorative justice is an ideal approach for resolving child rape cases involving juvenile offenders, provided that there is mutual agreement between the parties. Conversely, this research highlights the weaknesses in the application of restorative justice in child sexual violence cases, particularly its potential to neglect victims' rights and lead to impunity for perpetrators.

Based on the above explanation, a fundamental analysis is required regarding the dilemma of restorative justice as a form of impunity for perpetrators of child sexual violence. Therefore, this study will examine how the current application of restorative justice in cases of child sexual violence may lead to impunity for offenders, as well as explore an ideal model for its implementation that ensures the protection of victims' rights in achieving substantive justice. The objectives of this research are to: (1) explain the current application of restorative justice in cases of child sexual violence that potentially disregards victims' rights and results in impunity for perpetrators; and (2) analyze an ideal model for implementing restorative justice in such cases to guarantee the fulfillment of victims' rights and the realization of substantive justice.

2. Research Methods

The type of research used is normative legal research, which is research conducted by examining or reviewing library materials or secondary data in the form of legislation, jurisprudence, agreements, or opinions of legal experts (Widiarty, 2024). The approach used in this study is the statute approach, which involves examining various laws and regulations, particularly those related to the issue under study. This study also uses a conceptual approach in order to find answers to current legal issues, such as the application of restorative justice in cases of sexual violence against children. This study is normative in nature; therefore, the data sources used are secondary legal materials, which include primary legal materials, secondary legal materials, and tertiary legal materials. Furthermore, the data collection technique used in this study is library research, which involves collecting library materials, reading legal materials and literature, and examining various theories related to the legal issues in this study, namely regulations on restorative justice, child protection, and the juvenile justice system. This study also uses qualitative data analysis. Qualitative data analysis techniques are techniques that use descriptions of data analysis results to find answers to the phenomena being studied (Muhaimin, 2020)

3. Results and Discussion

3.1. The Current Application of Restorative Justice in Cases of Child Sexual Violence that Potentially Leads to Impunity for Perpetrators

Restorative justice is an approach to criminal case resolution that places recovery as its primary objective. This approach focuses on restoring the harm suffered by the victim, repairing social relationships, and addressing the psychological conditions of those affected. The resolution process under restorative justice involves the victim, the offender, as well as their families and the wider community as stakeholders (Taufik & Nirmala, 2024). Within the framework of restorative justice, the offender is not merely regarded as a subject to be punished, but also as a party responsible for making tangible reparations for the consequences of their actions. Such accountability may be implemented through various mechanisms, including compensation, apologies, rehabilitation programs, or community service in accordance with mutually agreed arrangements. Therefore, restorative justice is not solely oriented toward case settlement, but also ensures continued improvement of the victim's well-being and the social environment (Hariati & Kholiq, 2024)

One of the leading figures in the development of the restorative justice concept, Howard Zehr, asserts that restorative justice must be grounded in three fundamental principles: first, the victim must be placed at the center of the justice process; second, the offender has an obligation to take responsibility for their actions; and third, all stakeholders must be actively involved. Zehr initially formulated these principles as a critique of the retributive criminal justice system. He argues that the conventional justice system often causes further trauma to

victims, reinforces denial mechanisms among offenders, and fails to resolve social conflict within the community indeed, in many cases, it exacerbates the situation (Zehr, 2008). Thus, restorative justice emerges as a new paradigm in law enforcement, emphasizing dialogue, mediation, and active involvement of the victim, the offender, their families, and the broader community. Its purpose is to achieve a just resolution that prioritizes restoration rather than mere punishment.

The principles of restorative justice provide a solution to the inadequate protection of victims' rights that has long been overlooked within the conventional criminal justice system. The traditional system places greater emphasis on the offender and punitive measures, while victims are often positioned merely as objects or witnesses of the crime. Accordingly, restorative justice ensures legal certainty regarding the protection and fulfillment of victims' rights. From the standpoint of justice fulfillment, victims have a fundamental need to obtain legal protection that secures their rights as the harmed party. Restorative justice is implemented through victim-offender mediation, family group conferences, and community-based services aimed at restoring both the victim and the offender (Flora, 2025).

The principles of restorative justice have long existed and developed within Indonesia's customary law as a form of conflict resolution grounded in deliberative values. However, the formal adoption of restorative justice into the national legal system was first established through Law Number 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA), particularly via the diversion mechanism. In response to increasingly complex legal needs, Law Enforcement Authorities began issuing internal regulations to operationalize restorative justice, including the Prosecutor's Regulation Number 15 of 2020, the Police Regulation Number 8 of 2021, and the Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice.

In the context of juvenile cases, the application of restorative justice principles is referred to as diversion, as regulated in Law Number 11 of 2012 on the Juvenile Criminal Justice System. Article 1 paragraph (7) of the Law stipulates that diversion is the redirection of juvenile case resolution from the criminal justice process to a process outside the criminal justice system. The implementation of diversion within Indonesia's juvenile justice system is fundamentally aligned with international legal instruments, particularly the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) and the Convention on the Rights of the Child (CRC). Both instruments regulate diversion as a legal protection mechanism for children in conflict with the law. They emphasize that the handling of such children must prioritize the principle of child protection, which includes the best interests of the child, non-discrimination, respect for the dignity of the child, as well as guarantees for their survival, development, and participation in legal processes. This approach is intended to ensure that children are shielded from conventional criminal procedures and punishment that may negatively impact their future and psychological well-being (Sahetapy & Suharti, 2018).

Law Number 11 of 2012 on the Juvenile Criminal Justice System affirms in Article 5 that the Juvenile Criminal Justice System (UU SPPA) must prioritize restorative justice or diversion. This mandate is further reinforced in Article 7, which states that diversion must be pursued at the investigation, prosecution, and adjudication stages. Accordingly, diversion is required to be considered in all criminal cases involving children, including cases of sexual violence committed by minors, although its application remains restricted by the normative requirements under Article 7 paragraph (2), which stipulates that diversion may only be applied to offenses punishable by imprisonment of less than seven years and that do not constitute recidivism. Moreover, Article 23 of Law Number 12 of 2022 on the Crime of Sexual Violence (UU TPKS) further emphasizes that cases of sexual violence cannot be resolved outside the judicial process, except in situations where the offender is a child, as regulated by the relevant legislation.

Child sexual violence is a serious criminal offense that has long-term impacts on a child's growth and development; therefore, its handling cannot be carried out arbitrarily or without careful consideration of legal standards and victim protection measures. Consequently, ensuring the protection of child victims of sexual violence must be a foremost priority, given the severe and lasting consequences of such crimes (Batubara, Hurnayati, & Zuliah, 2025.). To ensure that the resolution of child sexual violence cases through a restorative approach remains aligned with the principles of child protection, the government has established several legal regulations as the basis for implementing restorative justice in such cases, including: (a) Law Number 12 of 2022 on the Crime of Sexual Violence; (b) Law Number 35 of 2014 on Child Protection; (c) Law Number 11 of 2012 on the Juvenile Criminal Justice System; and (d) Government Regulation Number 65 of 2015 concerning Guidelines for the Implementation of Diversion and the Handling of Children Under Twelve Years of Age.

In cases involving children, the Juvenile Criminal Justice System Law (UU SPPA) serves as the primary guideline for law enforcement authorities in resolving juvenile cases. The UU SPPA regulates procedures from investigation to adjudication. Although children who commit criminal acts must still undergo legal processes, their case resolution differs from that applied to adults. The juvenile justice system places greater emphasis on rehabilitation and guidance, while attempting to prevent the child from undergoing punitive sentencing. The objective is to ensure justice for the child victim as well as to provide the child offender with an opportunity to recognize their wrongdoing and take responsibility for their actions (Yuliana & Elisabeth, 2025). The approach described above represents the concept of diversion as regulated under the UU SPPA. In the handling of sexual violence cases, the principle of diversion is considered more comprehensive compared to the conventional criminal justice system.

The diversion mechanism in cases of child sexual violence is implemented through three stages. First, during the investigation stage, investigators coordinate with the Correctional Center (BAPAS) to assess the victim's psychological condition and the feasibility of diversion. If diversion is deemed safe and does not create new risks for the victim, a deliberation process is

conducted with professional assistance to ensure that the victim is not subjected to coercion. If no agreement is reached or if the process poses potential harm to the victim, the case must proceed to trial. Second, at the prosecution stage, the Public Prosecutor re-evaluates the possibility of diversion while prioritizing the victim's recovery and considering the Correctional Center (BAPAS) assessment results. Diversion may only continue if its implementation genuinely guarantees the victim's recovery and safety. Otherwise, the case shall be forwarded to the court. Third, during the court examination stage, the Juvenile Court Judge must ensure that the entire diversion process does not result in re-victimization and remains focused on the best interests of the victim. A diversion agreement may be ratified by the court if it fulfills the elements of victim recovery and offender accountability. However, if diversion fails or is deemed inappropriate, the trial must proceed to ensure effective justice for the victim.

If diversion successfully results in an agreement, the outcomes may include restitution for the victim, rehabilitation, returning the child to their parent or guardian, education or training programs, or community service. Such agreements are flexible and may be tailored to the needs of the parties involved, provided that they continue to safeguard the child and do not contravene the law. However, if the diversion process fails to produce an agreement, the case must proceed to the juvenile criminal justice process. Furthermore, the relevant provisions also specify that if a diversion agreement is not carried out by the parties, the case must be reopened, and the juvenile criminal proceedings must continue. Thus, Article 13 of the Juvenile Criminal Justice System Law (UU SPPA) provides a normative guarantee that the diversion mechanism must not serve as an instrument to entirely shield the juvenile offender from legal accountability, while ensuring that the protection of victims' rights and legal certainty remain the primary principles in case handling (Firmansah, 2023).

The regulation of diversion cannot be separated from the principle of child protection, as children are legal subjects who possess special rights as stipulated in the Convention on the Rights of the Child (CRC). In the context of sexual violence offenses involving minors, the fulfillment of these rights becomes a key indicator for assessing the success of restorative justice implementation. Restorative justice must provide fair and balanced rights and recovery for both parties. Child victims are entitled to restitution, rehabilitation, and justice, while child offenders are entitled to legal protection, rehabilitation, and a second chance to continue their future (Harahap et al., 2024). The rights of children as both victims and offenders are explicitly regulated in the Juvenile Criminal Justice System Law (UU SPPA), the Child Protection Law, and the Law on the Crime of Sexual Violence (UU TPKS). Thus, law enforcement authorities, in implementing restorative justice in cases of child sexual violence, must ensure a balance between the principle of protecting victims' rights and the offender's accountability.

In the context of sexual violence involving children as offenders, the implementation of restorative justice through diversion mechanisms carries the potential risk of creating a space for impunity, particularly when it is conducted without strict adherence to regulatory frameworks and the principles of victims' rights protection. Generally, impunity is defined as a

condition in which perpetrators of legal violations, including sexual violence, are not subjected to proportionate legal, disciplinary, or social sanctions for their actions. Therefore, impunity is not merely characterized by the absence of punishment for offenders, but also reflects a systemic failure to acknowledge wrongdoing, restore the rights of victims, and prevent the recurrence of similar criminal acts (Noer, 2025).

The potential for impunity in cases of child sexual violence often arises from unequal power relations. When the offender holds greater social, economic, or familial dominance, the child victim is placed in a vulnerable position, resulting in diversion agreements that may be reached not on the basis of the victim's rights to recovery, but rather due to pressure stemming from such power imbalances. Normatively, diversion is mandated and pursued in juvenile cases within the limitations established under the Juvenile Criminal Justice System Act (UU SPPA). However, one crucial requirement for diversion, which serves as a benchmark for its proper implementation, is the consent of the victim and their family. When the victim and their family refuse diversion, the formal legal process must proceed (Panu, Moonti, & Ahmad, 2025). In this context, the role of law enforcement officers in the diversion process is highly critical. As facilitators, they must ensure that the process is safe and free from coercion toward the victim, while maintaining a balanced approach that prioritizes the victim's recovery and the offender's accountability (Orlando, 2021).

However, in cases of child sexual violence, the lack of understanding among law enforcement officers regarding the concept of restorative justice often becomes a major obstacle. Instead of prioritizing the psychological condition and fulfillment of the victim's rights, law enforcement tends to focus more on safeguarding the future of the juvenile offender. As a result, the victim's position becomes neglected, and the primary objective of restorative justice ensuring fair and meaningful recovery for the victim fails to be achieved. In practice, law enforcement authorities frequently pressure victims into accepting forced reconciliation in order to reach a diversion agreement (Human Rights Watch, 2006). This excessive emphasis on peaceful settlement has the potential to create impunity, as it disregards the victim's recovery and may further perpetuate revictimization, particularly when not accompanied by adequate guarantees of protection and rehabilitation for the victim.

These conditions indicate that the improper application of diversion not only harms the victim but also generates forms of impunity in cases of child sexual violence. The manifestations of such impunity may be identified as follows: First, the neglect of reports of child sexual violence. In many cases, victims' reports are not followed up, or the process is exceedingly slow and lacks procedural clarity. When reports receive no adequate response, victims may experience revictimization due to the legal system's indifference toward their suffering.

Second, diversion is implemented merely as a formality, without substantive consideration of the fulfillment of victims' rights. In such situations, the offender is often only required to

deliver a verbal apology without any meaningful accountability, while the victim is pressured to agree to reconciliation despite the absence of adequate recovery measures.

Third, the sanctions or terms of accountability in diversion agreements are disproportionate or lack transparency, thus failing to reflect fair recovery for the victim and educational effects for the offender. The imbalance between the seriousness of the offense and the imposed measures reinforces the perception that child sexual violence is not a serious crime.

Fourth, intimidation of complainants, victims, victims' families, and witnesses. In some cases, victims and their families face pressure or threats from the offender, the offender's family, or even law enforcement personnel themselves. This places victims in a vulnerable position and renders their consent to diversion involuntary, driven by fear and helplessness.

Fifth, insufficient legal protection and recovery for victims. Child victims frequently lack adequate psychological assistance, medical or social rehabilitation, and restitution for the harm suffered. As a result, they are left to cope with the consequences of sexual violence without official mechanisms to support their recovery.

Sixth, failure to enforce diversion agreements. Even when diversion has been agreed upon, victims are often abandoned without monitoring mechanisms to ensure their recovery needs are fulfilled. The absence of oversight places victims at continued risk of trauma, without sufficient psychosocial support or effective restoration of their rights (Noer, *Op. Cit.*, 8-11).

Impunity in handling cases of sexual violence generates substantial consequences for offenders, victims, and the legitimacy of the legal system in the public eye. For offenders, restorative justice is ideally intended as a mechanism that encourages accountability for their actions while providing opportunities for behavioral rehabilitation (Nulhakim, et al., 2025). For victims, impunity directly hinders or even eliminates their rights as victims of sexual violence. Although restorative justice promotes the peaceful resolution of criminal cases, it does not negate the offender's legal responsibility. Restorative justice within the diversion process must prioritize the best interests of the victim by ensuring that they receive their rights, such as rehabilitation and restitution (Izza, Hidayati, & Siboy, 2022) For the community, impunity erodes public trust in the legal system. When perpetrators of sexual violence are not held proportionally accountable, the public may perceive the law as unsupportive of victims and ineffective in providing adequate protection. Such a condition risks normalizing sexual violence and reducing the reporting rate of cases due to fear or distrust in law enforcement mechanisms (Wanduta & Nelson, 2015).

This phenomenon is reflected in a sexual violence case that occurred in Pekanbaru in November 2023, in which a five-year-old boy became a victim of sexual abuse by his classmate. The case emerged after the victim exhibited unusual behavior and disclosed that he had been subjected to repeated abuse at school on four separate occasions. In response, the

victim's parents approached the school to seek clarification. Subsequently, the school, together with the Technical Implementation Unit for the Protection of Women and Children (UPT PPA), facilitated mediation between the parents of the victim and the perpetrator as an attempt to resolve the case through an informal settlement. However, the mediation process failed to produce a fair agreement, as the settlement letter did not include any obligation on the part of the perpetrator's family to cover the victim's medical or psychological rehabilitation costs. Moreover, the perpetrator was transferred to another kindergarten under the same educational foundation without any notification to the victim's family (Kumparan News, 2024). This case demonstrates that restorative justice mechanisms which are conducted outside the proper regulatory framework pose a significant risk of creating impunity and neglecting the rights of child victims.

Thus, the core issue in the implementation of diversion in cases of sexual violence against children does not solely lie in procedural aspects, but also in the extent to which the rights of the child both as a victim and as a perpetrator are effectively safeguarded. The fulfillment of these rights is the essence of the best interests of the child principle, which mandates that every juvenile justice process must prioritize optimal protection and recovery, as regulated under the Child Protection Law, the Juvenile Criminal Justice System Law (UU SPPA), and the Law on Sexual Violence Crimes (UU TPKS). Restorative justice can only be regarded as successful when diversion is carried out in accordance with legal provisions and ensures justice, compensation, and adequate recovery for the victim, while simultaneously securing the perpetrator's real accountability. Conversely, when diversion is conducted without adhering to such standards due to procedural deviations, the neglect of victims' rights, or the absence of monitoring mechanisms for the implementation of agreements it may lead to impunity, weaken deterrence, and increase the risk of reoffending as a result of inadequate rehabilitative interventions for the perpetrator.

Therefore, considering the serious impact of impunity in cases of child sexual violence, it is necessary to formulate a justice-oriented model of case resolution that prioritizes victim protection. One essential step is to reformulate policies and regulations to ensure that diversion and other non-litigation mechanisms continue to require the perpetrator's accountability, the victim's recovery, and strict oversight by law enforcement authorities. The implementation of a restorative justice model must also be victim-oriented, ensuring that physical, psychological, social, and legal recovery becomes the primary priority. A victim-centered approach guarantees that mediation or settlement agreements do not overlook the victim's rights to rehabilitation, restitution, and long-term protection.

3.2. An Ideal Model for the Application of Restorative Justice in Cases of Child Sexual Violence to Ensure the Protection of Victims' Rights in Achieving Substantive Justice

Indonesia has not yet developed a specific model for implementing restorative justice. The restorative justice practices in Indonesia generally take the form of mediation between the

victim and the offender, family conferences, and community involvement in supporting the victim. In the context of child sexual abuse, the Juvenile Criminal Justice System (UU SPPA) emphasizes efforts for comprehensive and continuous victim recovery. Restorative justice through the diversion mechanism provides space for child victims to express their traumatic experiences and involves child offenders in understanding the consequences of their actions (Warjianto et al., 2024). Thus, child offenders are expected to learn from their mistakes, take responsibility for their actions, and participate in efforts to restore the victim.

The restorative justice mechanism in cases of child sexual abuse must prioritize a balance between the restoration of the rights of child victims and the rights of child offenders. Fulfilling the rights of children as both victims and offenders constitutes two fundamental instruments in realizing the principle of the best interests of the child. This principle asserts that every policy, judicial process, and action taken in handling cases involving children must always place the child's best interests as the primary consideration.

To realize the principle of the best interests of the child, various regulations such as the Child Protection Law (UU Perlindungan Anak), the Juvenile Criminal Justice System Law (UU SPPA), and the Sexual Violence Crime Law (UU TPKS) provide guarantees of protection for children as both victims and offenders within the juvenile justice system. Normatively, the Child Protection Law, UU SPPA, and UU TPKS demonstrate alignment in ensuring the rights of children as victims of sexual violence crimes. The UU TPKS emphasizes the rights of victims to receive handling, protection, and recovery from the moment the crime occurs, while UU SPPA guarantees medical and social rehabilitation, protection of physical and mental safety, and access to information regarding case developments. The Child Protection Law also provides special protection for victims through healthcare services, psychosocial assistance, social support, and guidance throughout all stages of the criminal justice process. On the other hand, UU SPPA and the Child Protection Law also affirm the rights of child offenders to receive protection, education, guidance, and rehabilitation to prevent stigmatization that may hinder their growth and development. This is in line with the best interests of the child principle under the Convention on the Rights of the Child, which prioritizes rehabilitation and social reintegration (Aizwara et al., 2025).

However, in practice, the implementation of the restorative justice mechanism in cases of child sexual abuse still faces various obstacles and challenges. The first obstacle is the low level of knowledge among the parties involved regarding restorative justice, which often leads to rejection of mediation. The second obstacle is the public perception of restorative justice as "unjust" or as a legal compromise that weakens justice. The third obstacle is the lack of understanding and support from law enforcement officials (APH) regarding the restorative justice mechanism in sexual violence cases, which often results in conflicts between regulations and their implementation. The fourth obstacle is the insufficient resources and infrastructure to support restorative justice programs, such as trained facilitators and child psychologists. The fifth obstacle is that, from a regulatory perspective, the implementation of

restorative justice still requires more comprehensive and specific regulations. Therefore, to optimize its implementation, it is necessary to reform the legal system and policies to be more responsive, enhance the capacity and understanding of law enforcement officials, and ensure the availability of adequate resources and infrastructure to support its execution.

Although the concept of restorative justice has obtained a normative foundation in various laws and regulations, its implementation in cases of child sexual abuse still requires reformulation to be genuinely victim-centered while maintaining a balance with the best interests of the child offender. These challenges have created a gap between the normative regulations and the practical implementation of restorative justice in Indonesia. This gap has resulted in the restorative justice mechanism in cases of child sexual abuse being unable to optimally guarantee the fulfillment of victims' rights, often forcing victims to seek justice through alternative channels. Therefore, it is necessary to develop a more just, comprehensive, and victim-oriented resolution model, ensuring that the needs, interests, and rights of child victims are fully protected in order to achieve substantive justice.

This reformulation is crucial to ensure that restorative justice does not merely serve as a mechanism for amicable dispute resolution but also functions as an instrument for the comprehensive fulfillment of victims' rights. Accordingly, the ideal model of restorative justice in cases of child sexual abuse should emphasize a victim-centered approach. Victim-Centered Restorative Justice underscores that the victim is the primary subject in the resolution process, not merely an object of reconciliation between the offender and law enforcement and ensures that the victim is not further harmed. This model aims to actively involve the victim through participation, transparent information sharing, and acknowledgment of the traumatic experiences endured by the child victim; in other words, reconciliation should not be the ultimate goal, but rather a means to achieve comprehensive recovery. In this context, the child offender must still understand their wrongdoing, take responsibility, and undergo a structured rehabilitation process, rather than being released from legal accountability (Restorative Justice 101, 2025).

This approach also ensures that the rights of child victims are comprehensively fulfilled, thereby achieving substantive justice. These rights include: a) the right to be heard and to participate actively, b) the right to protection and safety, c) the right to recovery and rehabilitation, d) the right to restitution and compensation, and e) the right to information. The rights embedded in victim-centered restorative justice align with those stipulated in the Child Justice System Law (UU SPPA) and the Child Protection Law, as previously mentioned.

In addition to the victim-centered restorative justice model, the principles of restorative justice in cases of child sexual abuse must also be recovery-oriented. Recovery-oriented restorative justice can create a balance between the interests of the child victim and the child offender in the resolution process. Through this mechanism, the child victim receives recovery covering physical, mental, and emotional aspects. This recovery is facilitated through

psychological counseling, medical services, and ongoing social support to enable the victim to return to life with a sense of safety and dignity. Meanwhile, for the child offender, the recovery-oriented approach allows for moral learning and accountability for their actions, such as through community service or rehabilitation programs, which simultaneously provide the offender with the opportunity to improve themselves and reintegrate into society (Warjianto, 2024).

The success of implementing this model is reflected in New Zealand's experience, which has been able to ensure comprehensive recovery for victims through the application of restorative justice in cases involving children, including child sexual abuse cases. This success is supported by a clear legal framework, victim-centered recovery mechanisms, and the active involvement of families and communities in the resolution process.

The legal framework for restorative justice in New Zealand is established under the Children, Young Persons, and Their Families Act 1989, which emphasizes that the juvenile justice process must prioritize the reintegration of the offender into society without compromising the victims' rights to comprehensive recovery. The Act designates restorative justice as the primary mechanism for resolving cases involving child offenders, including sensitive cases such as sexual abuse, provided that the principles of accountability and victim protection are upheld (Zulfa, 2009).

The primary instrument for implementing restorative justice in New Zealand is the Family Group Conference (FGC). Through FGCs, victims, their families, offenders, their families, and professionals such as social workers convene to determine the offender's accountability and the recovery measures required by the victim (Zulfa, 2009). This model provides ample space for victims to express their perspectives, describe the impacts they have experienced, and actively participate in determining the desired recovery, ensuring that the victim's voice remains central to the resolution process.

The protection of victims' rights within this mechanism is not merely symbolic but is realized through tangible support. Victims are entitled to receive medical, psychological, and social rehabilitation services, access to legal assistance, and security guarantees against potential intimidation by the offender. In addition, restitution and compensation are required components of the FGC agreement, allowing victims' losses to be adequately restored, though not limited to these measures alone (United Nations Office on Drugs and Crime, 2020). Recovery is approached as a long-term process so that victims can fully resume their lives with dignity.

On the other hand, New Zealand's restorative justice model does not eliminate the offender's criminal accountability. Offenders are still required to fulfill the legal consequences agreed upon in the FGC forum, and if the offender is uncooperative or the agreement is not reached, formal judicial processes are applied (Febriansari & Cahyaningtyas, 2021). Thus, restorative

justice does not serve as a loophole for impunity but ensures deterrence, rehabilitation, and the prevention of reoffending, particularly through structured rehabilitation programs.

Various studies have demonstrated the effectiveness of restorative justice implementation in New Zealand, including reductions in recidivism rates, increased victim satisfaction with case resolution processes, and enhanced feelings of safety and family support. In the context of child sexual abuse, this approach is considered more humane and comprehensive, as it restores victims while ensuring that offenders receive appropriate guidance tailored to their psychological developmental needs (United Nations Office on Drugs and Crime, 2020).

The New Zealand model aligns with the legal framework in Indonesia, particularly regarding child protection as stipulated in the Child Protection Law, the Juvenile Criminal Justice System Law (UU SPPA), and the Sexual Violence Crimes Law (UU TPKS). Therefore, the implementation of restorative justice in cases of child sexual abuse in Indonesia can take these best practices into account as a reference for policy reformulation and strengthened oversight to prevent deviations and neglect of victims' rights. By using New Zealand's experience as a reference, Indonesia can develop an ideal restorative justice model one that guarantees comprehensive victim recovery, enforces proportional offender accountability, and prevents impunity. Ultimately, implementing this model is expected to achieve substantive justice, not merely procedural compliance, by genuinely providing protection and recovery for child victims of sexual violence.

To realize an ideal restorative justice model as practiced in New Zealand, facilitators recruited from various community sectors must be engaged, committed to the value of recovery, and equipped with cultural awareness and cross-cultural sensitivity. Facilitators must undergo initial training and ongoing mentoring to ensure competence in conflict resolution, victim protection, offender management, and knowledge of the criminal justice system. Training should also cover gender sensitivity and trauma-informed approaches to prevent victim traumatization during the recovery process. Additionally, a tiered accreditation system similar to that in New Zealand should be implemented to ensure the quality of facilitators handling sensitive cases, including child sexual abuse, thereby safeguarding the rights and dignity of all parties and realizing substantive justice (United Nations Office on Drugs and Crime, 2020).

In the implementation of restorative justice, it is crucial to ensure the existence of a monitoring mechanism to oversee the voluntary and proportional obligations agreed upon by the offender during the recovery process. Such monitoring is necessary to maintain the program's credibility and to ensure that reparative responsibilities, care needs, or other forms of restoration are genuinely fulfilled. Oversight mechanisms may involve official institutions such as the police, probation officers, or organizations supporting the offender, and in customary communities, social regulation by the community may also play a role. In some models, such as circle sentencing, judges remain involved in reviewing agreements and may defer the imposition of sanctions until obligations are completed. If the offender fails to meet

the agreement, the case should be referred back to the restorative program or the formal criminal justice process according to legal provisions, without using the failure as a basis for imposing harsher penalties (United Nations Office on Drugs and Crime, 2020). Thus, effective monitoring is a vital component in ensuring successful recovery and preventing impunity.

Furthermore, restorative justice programs require support from various social services to ensure victim recovery as well as offender rehabilitation and reintegration. This includes access to services such as mental health counseling, career guidance, and spiritual or community support. When such services are available, collaboration through partnerships or clear inter-agency protocols is necessary. However, if services are inadequate or difficult to access for either victims or offenders, the development of these supportive services must be carried out concurrently with the implementation of restorative justice programs. In this way, the recovery process can proceed in a more comprehensive and sustainable manner (United Nations Office on Drugs and Crime, 2020)

Finally, the role of the community in supporting the implementation of restorative justice in cases of child sexual abuse is equally important. Communities can assist in victim recovery and offender reintegration. In practice, "community" is often defined as supportive groups closely connected to the case, such as volunteers, local leaders, or concerned individuals. Levels of involvement may vary, but participation must be fostered through education on the values and objectives of restorative justice to prevent misunderstandings that it "softens" the offender's sanctions. With proper understanding, communities can act as active partners in ensuring justice and effective, sustainable recovery (United Nations Office on Drugs and Crime, 2020)

Therefore, the development of a restorative justice model that is victim-centered and balanced with the rights of child offenders represents a strategic step toward achieving substantive justice in cases of child sexual abuse. This model not only emphasizes comprehensive recovery for victims but also ensures accountability and rehabilitation for offenders, supported by competent facilitators, effective monitoring mechanisms, integrated social services, and active community participation. This comprehensive approach positions restorative justice as an instrument capable of genuinely protecting children's rights, preventing impunity, and reinforcing the principle of the best interests of the child within Indonesia's juvenile justice system.

4. Conclusion

The implementation of restorative justice in cases of child sexual abuse has significant potential to deliver justice that prioritizes the recovery of the victim while providing the offender with the opportunity to take responsibility and undergo rehabilitation. However, practices that deviate from regulations or lack proper oversight can result in impunity and the neglect of victims' rights. Therefore, an ideal restorative justice model should be victim-centered, balancing the restoration of victims' rights with the accountability of offenders, and

supported by trained facilitators, effective monitoring mechanisms, integrated social services, and active community participation. Through this comprehensive approach, restorative justice can ensure the physical, psychological, social, and legal recovery of victims, prevent impunity, uphold offender accountability, and realize substantive justice in accordance with the principle of the best interests of the child within Indonesia's juvenile justice system.

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