

## Implementation of Restorative Justice in Drug Crimes Committed by Children

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**Abstract.** *The background of this study is the high number of drug crimes committed by children in Indonesia. Drug crimes involving children often raise debates about the legal treatment that should be applied. One approach that can be used is restorative justice, an approach that aims to resolve cases by involving all related parties and focusing on recovery, not just punishment. This study aims to explore the implementation of restorative justice in drug crimes committed by children, as well as to analyze the effectiveness and challenges in its implementation. The research method used is a qualitative approach with case studies in several juvenile courts that handle narcotics cases. Data collection was conducted through in-depth interviews with law enforcement officers, legal practitioners, and parties involved in the juvenile justice process. In addition, data was also obtained through document analysis and court decisions related to the application of restorative justice in narcotics cases involving children. The results of the study indicate that the implementation of restorative justice in drug crimes committed by children has the potential to provide a more humane solution and pay attention to the best interests of children.*

**Keywords:** *Children; Crimes; Justice; Restorative.*

### 1. Introduction

Drug crimes are a form of extraordinary crime that has a broad impact on various aspects of life, including health, social, economic, and national security. The distribution and abuse of narcotics not only involve adults but also children. Children as perpetrators of drug crimes require a special approach in the criminal justice system, considering that they are still in a phase of mental and emotional development that is not yet stable.

In the juvenile justice system in Indonesia, the restorative justice approach is increasingly gaining attention as an alternative to resolving cases that is more

oriented towards recovery than punishment. This concept emphasizes restoring relationships between perpetrators, victims, and the community through mediation and out-of-court settlements. This approach is considered more humane and in accordance with children's rights that must continue to be upheld in every legal process.

Philosophically, the application of restorative justice in drug crimes committed by children is based on the values contained in Pancasila and the 1945 Constitution. The state has an obligation to protect children's rights, as stated in Article 28B paragraph (2) of the 1945 Constitution which states that "Every child has the right to survival, growth and development and has the right to protection from violence and discrimination." In addition, Article 34 paragraph (1) of the 1945 Constitution also emphasizes that the state is responsible for the care of the poor and neglected children, who are included in the category of children in conflict with the law.<sup>1</sup>

From a legal perspective, the implementation of restorative justice in narcotics crimes by children is regulated in various laws and regulations, such as Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA). In Article 1 number 6 of the SPPA Law, it is stated that diversion is the transfer of the settlement of children's cases from the judicial process to a process outside the criminal justice system. In addition, Article 5 paragraph (1) emphasizes that the juvenile criminal justice system must prioritize the restorative justice approach.<sup>2</sup>

Other legal provisions that support the implementation of restorative justice for children in narcotics cases are Law Number 35 of 2009 concerning Narcotics. Article 127 paragraph (2) of the Narcotics Law states that underage drug abusers can be placed in rehabilitation institutions, not sentenced to prison. This emphasizes that a rehabilitative approach is prioritized in handling narcotics cases involving children.<sup>3</sup>

From a sociological perspective, the increase in drug abuse cases among children indicates a complex social problem. Children involved in drug cases often come from disharmonious family environments, bad relationships, and social and economic pressures that make them vulnerable to drug crimes. Therefore, resolving cases through restorative justice provides an opportunity for children to receive guidance and rehabilitation so that they can return to society as better individuals.<sup>4</sup>

In addition, the restorative justice approach also has a positive impact on

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<sup>1</sup>The 1945 Constitution of the Republic of Indonesia, Article 28B paragraph (2).

<sup>2</sup>Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Article 1 number 6.

<sup>3</sup>Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Article 5 paragraph (1).

<sup>4</sup>Article 34 paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

victims, families, and communities. With the mediation mechanism between child perpetrators, victims, and communities, it is hoped that a better understanding of the impact of drug crimes can be established and that active community participation in efforts to prevent similar crimes in the future can be encouraged.

Although the restorative justice approach has many benefits, its implementation still faces various challenges. Some of these include the lack of understanding of the concept by law enforcement officers, limited facilities and infrastructure for child rehabilitation, and the negative stigma of society towards children who have been involved in drug crimes. Therefore, close cooperation is needed between the government, law enforcement officers, rehabilitation institutions, and the community in supporting the success of this program.<sup>5</sup>

In the global context, various countries have adopted the restorative justice approach in their juvenile justice systems. In countries such as Canada and New Zealand, this approach has proven effective in reducing recidivism rates and improving the welfare of children involved in the criminal justice system. Indonesia needs to continue to strengthen regulations and policies that support the implementation of restorative justice more effectively and sustainably.

The problem of drug crimes is one of the main challenges in the criminal justice system in Indonesia. Drugs not only affect individual users, but also damage the social, economic, and security order of the country. One of the vulnerable groups that often fall into drug abuse is children. Children as the next generation of the nation should receive special protection so that they are not involved in drug crimes.

The conventional criminal justice system tends to focus on punishment rather than rehabilitation, even for children in conflict with the law. In fact, in accordance with Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA), the approach used in dealing with children in conflict with the law must be more oriented towards restorative justice.

Restorative justice is an approach that aims to restore the condition of victims, perpetrators, and society by emphasizing solutions outside the formal justice process. This approach prioritizes deliberation, mediation, and rehabilitation so that children who commit narcotics crimes do not lose their future and can return to society better.

The implementation of restorative justice in cases of drug crimes committed by children still faces various challenges. Some of them are the lack of

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<sup>5</sup>Law Number 35 of 2009 concerning Narcotics, Article 127 paragraph (2).

understanding of law enforcement officers regarding the concept of restorative justice, the imbalance between the interests of perpetrators and victims, and the absence of a clear mechanism in implementing this approach.

Based on data from the National Narcotics Agency (BNN), cases of drug abuse by children have increased in recent years. This shows that the current system is still ineffective in preventing children from being involved in drug crimes. Therefore, an alternative approach that is more oriented towards recovery is needed, such as restorative justice.

One of the most recent cases that reflects the urgency of implementing restorative justice is the case of a child with the initials R (16 years old) in Jakarta who was caught for possession of crystal methamphetamine in 2023. R was a victim of exploitation by a narcotics network and was used as a courier by a certain group. In this case, restorative justice is important because R is not only the perpetrator but also a victim who needs to receive rehabilitation rather than a heavier criminal sentence.<sup>6</sup>

Another case example occurred in Surabaya, where a 15-year-old boy with the initials D was caught storing marijuana at his house in 2024. After an investigation, it was discovered that D used marijuana due to environmental pressure and bad relationships. Through a restorative justice approach, D was given rehabilitation and social guidance so that he would not fall back into drug abuse.<sup>7</sup>

The government has attempted to implement a restorative justice approach in various cases involving children. However, its effectiveness still needs to be improved with more targeted policies and coordination between agencies, such as the BNN, the Ministry of Social Affairs, and other law enforcement officers.

The legal system in Indonesia has provided a foundation for the implementation of restorative justice, but its implementation still requires synergy between various parties, including families, communities, and rehabilitation institutions. If this approach is implemented optimally, children involved in drug cases can get a second chance to improve their lives.

In the perspective of human rights, children have the right to receive protection and guidance, not just punishment. Therefore, restorative justice is a solution that is in accordance with the principles of child protection and international conventions on children's rights that have been ratified by

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<sup>6</sup>"Case of 16-Year-Old Child Becoming Drug Courier in Jakarta, Police Implement Restorative Justice," Kompas, 2023.

<sup>7</sup>"15-Year-Old Teenager in Surabaya Rehabilitated After Being Caught Storing Marijuana," Tempo, 2024.

Indonesia.

The restorative justice approach in handling children involved in narcotics is also in line with the concept of diversion that has been regulated in the SPPA. Diversion allows for out-of-court settlements, as long as certain conditions are met, such as a sentence of less than seven years and not being a serious crime.

By prioritizing the values of recovery, restorative justice can help reduce the number of recidivism or repetition of criminal acts by children. This is important considering that many children fall back into criminal acts after serving their sentences in correctional institutions.

Public awareness of the importance of this approach also needs to be increased. Many parties still believe that severe punishment is the best solution for children who commit drug crimes, even though it can actually worsen the psychological and social conditions of the child.

Therefore, this study aims to examine the implementation of restorative justice in cases of drug crimes committed by children, analyze existing obstacles, and provide policy recommendations that can increase the effectiveness of this approach in the juvenile criminal justice system in Indonesia.

With a deeper understanding of restorative justice, it is hoped that this approach can be a more humane and future-oriented solution for children who are involved in drug cases, so that they can return to society better and more productively.

## 2. Research Methods

This research uses a descriptive qualitative approach, namely to understand and describe the application of *restorative justice* on drug crimes committed by children. A qualitative approach was chosen because it can provide an in-depth picture of the processes and challenges faced by the justice system in handling drug cases involving children, as well as how the principles of *restorative justice* applied in that context. This research is a case study with a focus on implementation of *restorative justice* in resolving narcotics crimes involving children as perpetrators. Case studies will be conducted in several areas that have implemented the program of *restorative justice* in Indonesia, taking into account legal and social aspects, as well as their impact on the rehabilitation of children involved in narcotics crimes.

### **3. Results and Discussion**

#### **3.1. Implementation of the Restorative Justice Concept in Resolving Narcotics Crimes Committed by Children According to the Criminal Justice System in Indonesia**

Indonesia faces major challenges in dealing with drug abuse, especially those involving children. The criminal justice system in Indonesia has long focused on punishment as the primary form of resolving criminal cases. However, the growing restorative justice approach provides a more humane and rehabilitative alternative, especially in handling child offenders involved in drug crimes. The concept of restorative justice focuses on restoring harm and healing for all parties involved, including victims, perpetrators, and the community. In this context, the theory of restorative justice according to John Braithwaite can be used as an analytical tool to understand how these principles can be applied in the juvenile criminal justice system in Indonesia.

Drug abuse by children in Indonesia has become a very concerning social issue. Based on data from the National Narcotics Agency (BNN), children are increasingly vulnerable to becoming victims of drug abuse. Many of them are caught in the drug trafficking network, either as users, dealers, or couriers. In this case, children involved in drug crimes are often victims of poor social situations, family incompetence, and detrimental environmental influences.<sup>8</sup>

The juvenile criminal justice system in Indonesia has been regulated in Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). This system seeks to balance the protection of children's rights with fair law enforcement. One of the main principles upheld in this law is a more rehabilitative and restorative approach, with the main goal of restoring children involved in criminal acts, including narcotics crimes.<sup>9</sup>

Restorative Justice, translated as restorative justice, is an approach to resolving disputes or crimes that focuses on restoring the losses experienced by victims and perpetrators. This approach prioritizes dialogue, accountability, and resolution that involves all parties affected, not only perpetrators and victims, but also the wider community.

John Braithwaite, an expert in the field of restorative justice, developed the theory of restorative justice by emphasizing the concept of constructive "Shaming". Braithwaite argues that shaming or shame that is built positively can encourage perpetrators to admit their mistakes and take responsibility for their actions. Braithwaite distinguishes between destructive shaming (stigma)

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<sup>8</sup>Braithwaite, John. *Restorative Justice and a Better Future*. Cambridge University Press, 2002.

<sup>9</sup>Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System.

and constructive shaming (reintegration shaming), which aims for the social reintegration of the perpetrator back into society.

In the context of children involved in drug crimes, restorative justice offers a more constructive alternative compared to the traditional criminal approach. This approach does not only emphasize punishment, but also on restoring social relationships between children, victims, and the community. The process of dialogue and mediation can help children understand the impact of their actions and provide an opportunity for victims to express the losses they have experienced.

Restorative Justice in drug cases involving children can be done through several mechanisms, such as mediation between the perpetrator and the victim, counseling for the perpetrator, and rehabilitation programs that lead to recovery. In the context of children, mediation between the family, the victim, and the authorities is very important to achieve a just and dignified resolution.

The Indonesian government, through the SPPA Law, provides space for the implementation of a restorative approach in the juvenile criminal justice system. This implementation involves various institutions such as the police, prosecutors, courts, and correctional institutions that have a role in providing a fair and rehabilitative process for children.

Children involved in drug crimes often come from disadvantaged social backgrounds. With a restorative approach, it is hoped that these children can be given the opportunity to admit their mistakes, improve themselves, and return to society without any damaging stigma. This process minimizes the possibility of children becoming lifelong criminals.

Traditional approaches to juvenile justice that focus on incarceration often do not provide long-term solutions. Incarcerated children are likely exposed to environments that worsen their behavior. Restorative Justice, which emphasizes recovery, provides opportunities for children to change and learn from their mistakes.

Braithwaite emphasized the importance of the social learning process in restorative justice. Children involved in drug crimes must be given the opportunity to learn about the negative impacts of drugs on themselves and society. This learning process not only leads to moral responsibility, but also to a deeper understanding of the choices they can make in the future.

The family plays a key role in resolving juvenile criminal cases, especially in the context of narcotics. Braithwaite underlines the importance of family support in the process of social reintegration of the perpetrator. A restorative approach in this case can involve family counseling that focuses on improving the relationship between the child and parents, as well as encouraging the family



to play an active role in the rehabilitation process.

One of the important elements of restorative justice is mediation. In the case of children involved in drugs, mediation can be done between the child, the victim, the family, and the community. This process helps all parties to talk, understand each other's feelings, and find a solution that is fair to all. Braithwaite considers mediation to be an effective tool in repairing social relationships and restoring harmony to society.

Evaluation of the application of the concept of restorative justice in child drug cases must involve measuring the level of success in child rehabilitation. This can be seen from changes in the child's behavior after going through the restorative process, as well as the level of victim and community satisfaction with the solution taken.

Braithwaite also emphasized the importance of the role of the community in the restorative process. The community must be involved in resolving juvenile crimes, both as a party that provides social support and as a party that assists in the process of reintegrating children into the social community. In the context of narcotics, the community plays a role in creating an environment that supports child recovery.

More traditional juvenile justice systems often focus on punishment as a form of retribution. However, a restorative approach that places more emphasis on restoring and repairing social relationships is more effective in addressing the root causes of drug abuse, namely the social, economic, and environmental factors that harm children.

Rehabilitation is a key component of restorative justice, especially for children involved in drug use. Rehabilitation programs should include education, psychological counseling, and life skills training that help children change. Restorative justice allows children to get the help they need to heal and thrive.

Judges have an important role in determining whether a restorative approach can be applied in drug crime cases involving children. In practice, judges can decide to use alternative solutions such as mediation, counseling, or rehabilitation programs instead of imposing prison sentences. This is in accordance with the spirit of the SPPA Law which encourages the resolution of children's cases in a more rehabilitative manner.

The implementation of restorative justice in Indonesia in resolving drug crimes involving children faces various challenges, ranging from the lack of public understanding of restorative principles to limited resources to run effective rehabilitation programs. However, if implemented properly, this approach can provide more positive results for the future of children and society.



The application of restorative justice in resolving drug cases involving children in Indonesia can be an example for the application of broader principles of justice throughout the criminal justice system. Braithwaite emphasized the importance of applying this principle not only in cases of children, but also for all forms of crime that involve elements of recovery and healing.

The implementation of restorative justice in resolving drug crimes committed by children in Indonesia offers a more humanistic, rehabilitative, and recovery-focused approach. Using John Braithwaite's restorative justice theory as a foundation, the application of this concept in the juvenile criminal justice system in Indonesia can be an effective solution to reduce drug abuse among children, while maintaining their dignity and rights as individuals who have the potential to change and develop.

My opinion on the Implementation of the Restorative Justice Concept in Resolving Drug Crimes Committed by Children According to the Criminal Justice System in Indonesia, Restorative Justice (RJ) is an approach in the criminal justice system that focuses on restoring relationships damaged by criminal acts, not just giving punishment. This concept emphasizes the recovery of victims, perpetrators, and society. In the context of resolving drug crimes committed by children, the implementation of Restorative Justice in Indonesia focuses on social reintegration and rehabilitation, not just punishment.

Restorative Justice was first introduced in Indonesia through several regulations that regulate the approach to resolving criminal cases in a way that prioritizes healing and reconciling solutions. This approach is very relevant in the case of children, who in criminal law are considered individuals who are not yet fully mature and need to be given the opportunity to improve themselves.

In Indonesia, children involved in narcotics crimes are entitled to special protection in accordance with the provisions of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System. In this regulation, children are considered as perpetrators who are not yet fully responsible, and therefore, they are more likely to be given the opportunity to improve themselves through a more humane approach.<sup>10</sup>

The concept of Restorative Justice is used as a legal basis in several related regulations, including Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, as well as other regulations such as Government Regulation No. 65 of 2015 concerning Handling of Children in Conflict with the Law. In these regulations, it is emphasized that RJ can be applied with the aim of restoring

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<sup>10</sup>Law of the Republic of Indonesia No. 11 of 2012 concerning the Juvenile Criminal Justice System.

children and avoiding excessive punishment.<sup>11</sup>

In cases of drug crimes by children, the application of Restorative Justice begins with the investigation and inquiry stage. At this stage, the police, prosecutors, and investigators will consider whether the case meets the requirements for using RJ. One important factor is whether the perpetrator is willing to admit his actions and show remorse.

The prosecutor's office plays an important role in the implementation of RJ, especially in determining whether the child can be subjected to further legal proceedings or resolved restoratively. The prosecutor can decide to direct the case to the RJ process, provided that the child meets certain criteria, such as an admission of guilt and readiness to take responsibility for his/her actions.

One of the key elements in Restorative Justice is mediation between the perpetrator, victim, and community. In this case, the parties involved will communicate directly to find a mutually beneficial solution. For children involved in drug cases, this mediation aims to educate children to be aware of the impact of their actions, and to help restore relationships with family and community.<sup>12</sup>

Rehabilitation is an important part of implementing Restorative Justice for children involved in drug crimes. Children who are victims or perpetrators of drugs need psychological, medical, and social assistance so they can reintegrate into society. Therefore, rehabilitation institutions have an important role in assisting the recovery process.

In Restorative Justice, the punishment imposed on children is not always in the form of imprisonment, but can be in the form of rehabilitation or a more educational coaching program. This is in accordance with the principles of the Juvenile Criminal Justice System which emphasizes the education and recovery of children, not merely harsh punishment.

Restorative Justice also considers the child's social and family factors as part of the recovery process. For example, in drug cases, the child's family must be involved in the rehabilitation process to ensure the emotional and social support needed for the child's recovery.

The community also has a big role in the Restorative Justice process. The community can be a facilitator in mediation and help children in the process of social reintegration. A community that accepts children back with an open heart will speed up the recovery process.

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<sup>11</sup>Government Regulation No. 65 of 2015 concerning Handling of Children in Conflict with the Law.

<sup>12</sup>Convention on the Rights of the Child (CRC), UN.

Restorative Justice offers a variety of benefits for children involved in drug crimes. Among them are preventing children from the negative impacts of long-term detention, providing opportunities for self-improvement, and reducing the social stigma often received by children involved in criminal acts.

Despite its many advantages, the implementation of Restorative Justice in Indonesia still faces challenges. One of them is the lack of adequate understanding of the concept among law enforcement officers, so that the implementation process is often hampered.

One of the biggest obstacles in implementing Restorative Justice is the negative stigma against children involved in drug cases. Many parties feel that they must be punished strictly to provide a deterrent effect. In fact, a more rehabilitative approach can actually prevent children from repeating their actions in the future.

The success of implementing Restorative Justice in resolving drug crimes by children is highly dependent on collaboration between various agencies, such as the police, prosecutors, courts, and rehabilitation institutions. Each agency needs to have the same understanding of the RJ concept so that the process can run smoothly.

To increase the effectiveness of the implementation of Restorative Justice, there needs to be wider education and socialization regarding this concept to the community and law enforcement officers. That way, a deeper understanding of RJ can be created, which in turn will facilitate its implementation in the criminal justice system.

The success of Restorative Justice needs to be evaluated periodically to determine the extent to which this process can provide benefits for children involved in drug crimes. This evaluation will help in improving the existing RJ system and procedures.

Restorative Justice is in line with the principles of children's human rights contained in the Convention on the Rights of the Child (CRC) which has been ratified by Indonesia. One of these principles is the right of children to be protected from cruel or degrading treatment, as well as the right of children to have equal opportunities to improve themselves.

Rehabilitation is a better alternative compared to prison sentences for children involved in drug crimes. With rehabilitation, children are not only given the opportunity to improve themselves, but are also given skills that are useful for their future.

In juvenile court, Restorative Justice can be applied through various forms of settlement, such as deferred prosecution, diversity, or rehabilitation. Juvenile

Court can be a place that encourages the process of reconciliation between children, families, and society, so that children can return to playing a positive role in social life.

The implementation of Restorative Justice in resolving drug crimes committed by children in Indonesia provides a more humane and effective alternative in child recovery. With the right approach, Restorative Justice can be a solution to correct the mistakes made by children, while preventing further crimes.

### **3.2. Inhibiting and Supporting Factors in the Implementation of Restorative Justice for Children Involved in Drug Crimes.**

One of the main supporting factors for the implementation of RJ is the protection of children's rights as stated in various international conventions and national regulations. The Child Protection Law in Indonesia emphasizes that children involved in criminal acts must be treated in a manner that focuses on rehabilitation and not just punishment. RJ provides an opportunity for children to improve themselves through dialogue and recovery without having to feel the impact of harsh punishment.

In Braithwaite's restorative justice theory, the restoration of social relations is highly emphasized. RJ facilitates the restoration of children's relationships with their families, communities, and victims, which supports the process of children's mental development. This development can reshape the attitudes and behaviors of children involved in drug crimes, minimizing the possibility of them falling into further criminal behavior.

The implementation of RJ provides an opportunity for the perpetrator to understand the impact of his actions on others and society. This process allows the perpetrator to feel remorse and take responsibility for his actions, which is in line with the Braithwaite approach which emphasizes personal responsibility as a step of recovery, not just punishment.<sup>13</sup>

Braithwaite argues that restorative justice focuses more on a humanistic approach. Children involved in drug cases often come from troubled social backgrounds, and RJ offers an approach that is more concerned with their psychological and social needs, thus increasing their chances of changing into better individuals.

The family plays an important role in RJ, both as a source of support and as a party involved in the recovery process. According to Braithwaite, building better relationships between offenders and their families is one way to create a sense of social responsibility, thereby improving the child's behavior and

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<sup>13</sup>Braithwaite, John. *Restorative Justice and a New Criminal Law*. Cambridge University Press, 2002.

reducing the likelihood of relapse into drug crimes.

The implementation of RJ helps reduce the social stigma against children involved in drug crimes. By shifting the focus from punishment to recovery, RJ reduces the likelihood that children will be considered lifelong criminals, and opens up opportunities for them to be accepted back into society after the rehabilitation process is complete.<sup>14</sup>

In RJ, the parties involved, including the victim and the perpetrator, are given space to talk and find solutions together. This not only benefits the perpetrator in terms of mental and social recovery, but also provides an opportunity for the victim to feel heard, which can ultimately speed up the healing process for both

The government has an important role in supporting the implementation of RJ, both in terms of policy, funding, and infrastructure provision. Without clear policies and government support, the implementation of RJ will be limited, and children involved in drug crimes will be caught in a harsher justice system.

In many areas, understanding of the RJ concept is still limited, especially among law enforcement officers and the general public. Without a deep understanding, many parties doubt the effectiveness of RJ in handling narcotics cases, and prefer the more familiar conventional legal system.

John Braithwaite, in his theory of restorative justice, suggests that the justice system should focus on the process of social recovery and reconciliation. In the context of children involved in drugs, this theory is very relevant because it prioritizes crime prevention through social integration and recovery, rather than punishment. Braithwaite also emphasizes the importance of repairing the relationship between the perpetrator and the community, and building a culture of mutual respect and understanding.

According to Braithwaite's theory, restorative justice can prevent crime by building a sense of personal responsibility in the perpetrator, reducing social stigma, and improving the quality of positive social relationships. Thus, RJ can be a better alternative to deal with children involved in drug crimes, because its approach is based on social rehabilitation, rather than just punishment.

The application of Restorative Justice to children involved in drug crimes faces various challenges, both in terms of the dominant legal paradigm, limited resources, and community resistance. However, this approach still has great potential to provide a more humane and effective solution compared to a legal system that only focuses on punishment. By adopting Braithwaite's theory of restorative justice, RJ can make a positive contribution to preventing further

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<sup>14</sup>Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System.

crime, while improving the relationship between perpetrators, victims, and the community.

My opinion on the inhibiting and supporting factors in the application of restorative justice to children involved in drug crimes

The application of Restorative Justice (RJ) to children involved in drug crimes is a challenge that requires a deep understanding of the inhibiting and supporting factors that influence the effectiveness of this approach. Restorative Justice aims to improve relationships between individuals involved in violations of the law by focusing on restoring losses and providing opportunities for perpetrators to be responsible for their actions. The application of RJ to children involved in drug crimes involves several important aspects, which can act as inhibitors or supporters.<sup>15</sup>

### 1) Supporting Factors

Restorative Justice for children must consider the characteristics of the child's age development and psychological needs. As individuals who are in a developmental phase, children require a different approach than adults. Understanding this can help create an environment that supports their healing and rehabilitation process.

One of the main principles of RJ is to repair the harm caused by the crime, rather than just punishing it. This approach places more emphasis on rehabilitation than punishment, which is in line with the principles of child protection contained in the Convention on the Rights of the Child. This can be a great support for children involved in drug cases, as there are more opportunities for rehabilitation than detention.

Families play an important role in supporting child rehabilitation. Restorative Justice often involves families in the resolution process, so that they can understand the root of the problems experienced by the child and be actively involved in the repair process. Family support is very important for the success of child rehabilitation, including in drug cases.

Restorative Justice promotes community involvement in helping children involved in crime to improve themselves. Programs that involve the community can create an environment that supports the child's rehabilitation process. This community involvement can also reduce the stigma against children involved in drugs.

Restorative Justice in drug cases involves a multidisciplinary approach involving psychologists, social workers, and other authorities. This approach allows for a

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<sup>15</sup>United Nations, Convention on the Rights of the Child, Article 37, 1989.

more comprehensive understanding of the problems faced by children and can produce more effective solutions in dealing with drug problems involving children.

One of the main supporting factors is the availability of appropriate education and rehabilitation facilities for children involved in drug crimes. If existing rehabilitation facilities can provide comprehensive support, then children have a greater chance of recovering and avoiding similar crimes in the future.

Rehabilitation programs that focus on children involved in drugs can have a positive impact in minimizing their risk of repeating the same mistakes. These programs can offer interventions that are more sensitive to the age and psychological needs of children, supporting efforts to recover from drug abuse.

Increasing understanding of the concept of Restorative Justice in society, legal circles, and other related parties can be an important supporting factor. The more people understand the principles and benefits of RJ, the greater the possibility of its application to children involved in drug crimes.<sup>16</sup>

Restorative Justice pays attention to children's rights and their protection during the legal process. Adequate legal protection for children, such as the right not to be punished excessively, greatly supports their rehabilitation process and reduces the potential negative impacts of the criminal justice system.

## 2) Inhibiting Factors

One of the biggest challenges in implementing Restorative Justice for children involved in narcotics is social stigma. Children involved in narcotics cases are often ostracized or viewed negatively by society. This can hinder the rehabilitation process because children feel unaccepted or unsupported by their surroundings.

Restorative Justice programs require significant resources, such as rehabilitation facilities, psychological support, and adequate supervision. The lack of these resources can be a major obstacle to the implementation of RJ, because without adequate support, successful rehabilitation of children becomes more difficult to achieve.

One of the main challenges in implementing RJ is the lack of an integrated approach among the various parties involved, such as law enforcement, rehabilitation institutions, and families. This lack of integration can cause obstacles in implementing effective solutions for children involved in narcotics.

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<sup>16</sup>Dunst, C. J., & Trivette, C. M. (2009). "Family support and children's development: A conceptual model of services". *Journal of Early Intervention*, 31(1), 1-14.



In some cases, it is possible that parties involved in the RJ process may abuse the system for personal gain or to avoid punishment that should be received by the perpetrator. Such abuse can damage the credibility of RJ and reduce its effectiveness in helping children involved in drugs.

The Restorative Justice process is not always easy to measure its results. Sometimes, the assessment of success or failure can be subjective, and this can make it difficult for stakeholders to determine whether this approach is effective in dealing with drug problems in children.

Children involved in drugs often grow up in unsupportive social environments, which also influence their behavior. These unsupportive environmental factors, such as association with friends who are also involved in drugs, can hinder Restorative Justice efforts in helping children recover from addiction.

The application of Restorative Justice to children involved in drug crimes has great potential to provide a more humane and effective solution compared to the traditional criminal system. However, for this approach to be successful, support from various factors is needed, ranging from an understanding of children's needs to the availability of sufficient resources. Existing inhibiting factors, such as social stigma and lack of integration between various parties, need to be addressed with a more coordinated and in-depth approach. An approach that pays attention to the interests of child rehabilitation, not just punishment, will provide more positive and sustainable results for children involved in drug cases.

### **3.3. Inhibiting Factors in the Implementation of Restorative Justice for Children Involved in Drug Crimes**

The legal substance governing restorative justice for children has indeed been regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). However, in the context of children involved in narcotics crimes, this regulation has not explicitly accommodated the implementation of restorative justice as a whole, especially in cases of narcotics abuse which are qualified as special crimes.

Several articles in the Narcotics Law (Law No. 35 of 2009) are still repressive and emphasize criminalization, resulting in disharmony between the spirit of child protection and the prevention of drug crimes. In addition, the absence of specific technical guidelines on how the restorative justice mechanism is applied in cases of child drug abusers causes legal uncertainty in the field.

The legal structure, in this case law enforcement officers (police, prosecutors, judges, and community counselors), still lacks understanding and adequate training on the application of restorative justice, especially in narcotics cases. Many officers are still oriented towards a positive legal approach (legalistic-

formalistic) and assume that narcotics crimes, even if committed by children, must still be processed repressively.

In addition, supporting facilities such as rehabilitation houses or LPKS (Social Welfare Institutions) are not evenly distributed and not all regions have adequate structural support to implement a restorative justice approach.

The legal culture of society and law enforcement officers in Indonesia still tends to have a punitive paradigm rather than a restorative approach. There is an assumption that children involved in narcotics are criminals, not victims of drug abuse who need to be guided. The social stigma against children who use narcotics is also an obstacle to the acceptance of the restorative justice approach.

In addition, the lack of community and family participation in the restorative case resolution process shows that a participatory legal culture has not been optimally formed in the juvenile justice system.

#### 4. Conclusion

The implementation of the restorative justice concept in resolving drug crimes committed by children in Indonesia has the potential to create a more humane and rehabilitative solution. Restorative justice provides opportunities for children to improve their behavior and reintegrate into society without experiencing too much negative stigma. Through John Braithwaite's reintegrative shaming theory, this approach emphasizes providing opportunities for perpetrators to change in a way that supports recognition, regret, and rehabilitation.

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