

Resolution of Criminal Acts of Monomagy and Sexual Abuse Against Children Based on Restorative Justice at The Karimun Resort Police Office

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Abstract. *Indonesia guarantees the protection of children's rights and imposes severe sanctions for child molestation and sexual abuse. In practice, some cases are resolved through restorative justice. This mechanism raises debate because it must balance the recovery of the victim with public interest and law enforcement. This study aims to examine and analyze the resolution of child molestation and sexual abuse cases based on restorative justice at the Karimun Police Resort and its weaknesses. The study uses a sociological juridical method with a descriptive-analytical research specification. The data types used are primary and secondary data, collected through field studies and literature studies. Data analysis is conducted qualitatively, using law enforcement theory and progressive law theory as analytical frameworks. Based on the results, it can be concluded that the resolution of child molestation and sexual abuse cases through restorative justice is carried out at the request of the victim's family and based on a peace agreement with the perpetrator to protect the child from trauma and stigma. However, this mechanism contradicts the law because child molestation is a serious crime, neglects public interest, and weakens the preventive and repressive functions of criminal law. The weaknesses of applying restorative justice in child molestation cases include a focus on private settlement, financial compensation, the use of police discretion, and lack of oversight, which may create negative precedents and reduce legal certainty and the effectiveness of law enforcement.*

Keywords: *Criminal Acts; Child Molestation And Sexual Abuse; Restorative Justice.*

1. Introduction

The Unitary State of the Republic of Indonesia (NKRI) is a state based on law, as

stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUDmahan 1945). The provisions of this article require that all aspects of national and social life always be based on law.¹Law is a collection of coercive rules that determine human behavior in society. These rules are created by official state institutions and carry strict sanctions for violators.²

One of the conditions for building a state based on the rule of law is the existence of legal instruments used to regulate balance and justice in all areas of life and community livelihood through laws or regulations.³Indonesia, as a country based on law, should ensure that all aspects of state administration, state administration, and public order are regulated by laws that are oriented towards justice and legal certainty for all its citizens.⁴

A state based on the rule of law also places a paramount importance on human rights, a gift from God Almighty. Therefore, Indonesia guarantees the protection of human rights in the legal field, including children's rights.⁵The state's commitment to guaranteeing children's rights is formulated in Article 28 B paragraph (2) which states that every child has the right to survive, grow and develop and has the right to protection from violence and discrimination.⁶

Children are the next generation who determine the sustainability of a nation and state. Therefore, the state and its supporting institutions are obliged to provide the best for children through strategic measures to ensure the sustainability of national and state life in the future and achieve national goals. National awareness, as well as the constitutional basis for protecting children, is a primary concern of the state, which has expressly regulated and guaranteed children's constitutional rights.⁷

In reality, children who should receive care, education, guidance and protection,

¹Novita Ilmaris and Arpangi, Reform of Bureau of Public Services in the Framework of Prevention & Eradication of Corruption in Indonesia, *Law Development Journal*, Volume 2 Issue 4, December 2020, p. 634

²Ishaq, 2012, *Basics of Legal Science*, Jakarta: Sinar Grafika, p. 3.

³Jawade Hafidz Arsyad and Dian Karisma, 2018, *Centralization of Government Goods & Services Procurement Bureaucracy*, Sinar Grafika, Jakarta, p. 23

⁴Arpangi, Maydika Ramadani, Cindy Yosiana, Optimizing Penal Mediation through Restorative Justice: A Progressive Solution in Criminal Law Reform, *Justice Journal Dialectical*, Volume 2, Issue 2, 2024, p. 85

⁵Anton Rudiyanto, The Function of Fingerprints in Murder Crime Perpetrators (Case Study at Tegal Police), *Khaira Ummah Law Journal*, Volume 12 Number 4 December 2017, p. 928.

⁶Nur Indah Setyoningrum and Anis Masdurohatun, Restorative Justice in Children's Criminal Jurisdiction System Through Diversion, *Law Development Journal*, Volume 2 Issue 4, December 2020, p. 573.

⁷Moh Junaidi, Arpangi, R. Sugiharto, The Supreme of the Child Criminal Jurisdiction System in Protecting Children's Rights that Deal with the Law, *Ratio Legis Journal*, Volume 1 Number 2, June 2022, p. 222.

often become the targets of criminal acts.⁸, one of which is the crime of indecent assault and sexual intercourse. The crime of indecent assault against children is regulated in Article 76E of Law Number 35 of 2014 concerning Child Protection as last amended by Law Number 17 of 2016 (Child Protection Law) states that every person is prohibited from committing violence or threats of violence, forcing, using trickery, telling a series of lies, or persuading a child to commit or allow indecent acts to be committed. The criminal threat for the perpetrator is regulated in Article 82 of the Child Protection Law in the form of imprisonment for a minimum of 5 years and a maximum of 15 years and a maximum fine of five billion rupiah. If the crime is committed by a person who has a family relationship, has committed a similar crime, the victim is more than 1 (one) person, results in serious injury, mental disorder, infectious disease, impaired or loss of reproductive function, and/or the victim dies, then the penalty is increased by 1/3 of the penalty. In addition, adult perpetrators can also be subject to additional penalties in the form of announcing the perpetrator's identity, being subject to rehabilitation measures and the installation of electronic detection devices.

The crime of sexual intercourse is regulated in Article 287 paragraph (1) of the Criminal Code states that anyone who has sexual intercourse with a woman outside of marriage, even though it is known or should be suspected that she is not yet fifteen years old, or if it turns out that she is not yet capable of marriage, is threatened with a maximum prison sentence of nine years. The crime of sexual intercourse with children is specifically regulated in Article 76D of the Child Protection Law which states that everyone is prohibited from using violence or threats of violence to force a child to have sexual intercourse with him or with another person. The criminal threat is as regulated in Article 81 of the Child Protection Law, namely a prison sentence of at least 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of IDR 5,000,000,000.00 (five billion rupiah). This punishment also applies to people who intentionally use trickery, a series of lies, or persuade a child to have sexual intercourse with him or with another person. If the perpetrator of the crime is a parent, guardian, child caretaker, educator or education staff, then the penalty is increased by 1/3 (one third) of the criminal threat mentioned above.

The above provisions demonstrate that the Child Protection Law clearly prohibits the broadcast of acts of violence against children, with severe sanctions. However, in reality, cases of sexual violence (molestation and sexual intercourse) against children remain common. According to SIGA data from the Ministry of Women's Empowerment and Child Protection (KemenPPA), the number of

⁸Denie Widya Rahardja and Andri Winjaya Laksana, Implementation of Restorative Justice in Cases of Physical Violence Against Children, *Legis Ratio Journal*, Volume 4 No. 1, March 2025, p. 331

children in Indonesia who experienced sexual violence in 2024 was 11,771.⁹At the Karimun Police, Riau Islands Regional Police, in 2024, 15 cases of child molestation and sexual intercourse were handled, while in 2025 until October there were 7 cases.

Settlement of criminal acts of child molestation and sexual intercourse through the criminal justice process, namely starting from the investigation stage, prosecution to trial.¹⁰Law enforcement against violations of the law is one of the characteristics of a state based on law.¹¹This aligns with current criminal law provisions, which are still oriented toward the punishment system. However, it cannot be denied that advances in science and technology have impacted criminal law. Society continues to experience developments in various aspects of life, which are becoming increasingly complex. This complexity of developments gives rise to the need for regulation (reform) in various fields, including criminal law, which plays a crucial role in enforcing regulations so that they have the force and authority to be complied with.¹²

Traditional normative approaches through the judicial process often run into problems with case backlogs and overcrowding in correctional institutions. This situation underscores the need for alternative mechanisms for resolving criminal cases outside the courts, such as restorative justice-based mediation. This approach creates space for peaceful resolution between perpetrators and victims and actively engages the community to achieve more substantive justice. Modeled after progressive practices in other countries, such as the Netherlands, criminal mediation has the potential to overcome various obstacles in the Indonesian criminal justice system, increase resource efficiency, reduce the burden on correctional institutions, and still guarantee the rights of both perpetrators and victims proportionally.¹³

Crimes of child molestation and sexual intercourse are generally considered serious crimes and, in many cases, do not qualify for restorative justice. However, under certain circumstances, restorative justice may be considered.

The resolution of criminal acts through restorative justice, as outlined in Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code) and Law Number 20 of 2025 concerning the Criminal Procedure Code (New Criminal Procedure Code), is a recovery-based approach, not a retaliation approach, with

⁹SIGA KemenPPA, Number of Violence Against Children by Type of Violence Experienced (2024), <https://siga.kemenpppa.go.id>, accessed November 10, 2025.

¹⁰Syaiful Bakhri, 2015, Indonesian Criminal Justice System, Pustaka Pelajar, Yogyakarta, p. 19.

¹¹Abdul Haris, Umar Ma'ruf, and Sri Kusriyah, Role And Function Of Attorney In Order To Optimize The Prevention Of Corruption Through Establishment Of TP4P/D (Case Studies In State Attorney Of Grobogan), Jurnal Daulat Hukum, Vol. 2 No. 4, December 2019, p. 449.

¹²Amrani, Hanafi, 2019, Politics of Criminal Law Reform, UII Press, Yogyakarta p..35

¹³Arpangi, Maydika Ramadani, Cindy Yosiana, Op.Cit., p. 85.

a focus on compensation, forgiveness, and social improvement. Restorative justice can be applied during the investigation, inquiry, and prosecution stages, where the victim and perpetrator reconcile.

At the Karimun Police, cases of sexual abuse and sexual intercourse at the investigative stage can be resolved through a restorative justice approach. The legal basis for this is Indonesian National Police Regulation (Perpol) Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice.

Some of the reasons underlying the resolution of child molestation cases based on restorative justice include the absence of any elements of violence or coercion (mutual consent), the perpetrator and victim being both minors, the willingness to make peace between the perpetrator and the victim, or consideration of the psychological impact on the victim so that it can be handled quickly.

One of the cases of child molestation crimes resolved based on restorative justice is in the case of the suspect MA (adult) who committed molestation against the child victim. The suspect committed molestation against the victim by inviting the victim to his house to commit molestation against the victim, but the victim resisted, so the victim was dragged from the living room to the bedroom to be molested. Initially, the victim's family reported the perpetrator and demanded legal proceedings, but then the victim asked for a resolution based on restorative justice because a peace agreement had been reached with the perpetrator.

2. Research Methods

The approach method used in this research is an empirical juridical approach method, namely research based on normative legal science (statutory regulations), but does not study the norm system but rather observes how reactions and interactions occur when the norm system works in society.¹⁴ This research examines from the perspective of legal science and other written regulations related to the resolution of criminal acts of child molestation based on restorative justice at the Karimun Police.

3. Results and Discussion

3.1. Restorative Justice-Based Resolution of Child Molestation and Sexual Intercourse Cases at the Karimun Police Resort

Crimes of child molestation and sexual intercourse against minors in Karimun Regency have seen a worrying increase, with sexual assault cases ranking second only to narcotics. Ironically, the majority of victims of these sexual molestations

¹⁴Mukti Fajar ND and Yulianto Achmad, 2013, *Dualism of Normative and Empirical Legal Research*, Pustaka Pelajara, Yogyakarta, 2013, p. 47.

and sexual intercourse are still minors.¹⁵

Based on research at the Karimun Police, data showed that there were eight cases of child molestation and sexual intercourse in 2024, and seven in 2025. In practice, cases of child molestation and sexual intercourse are resolved through restorative justice.

To find out the resolution of criminal acts of child molestation and needs based on restorative justice at the Karimun Police, the following describes the case in case No. LP-B/30/VII/2024/SPKT/Karimun Police/Kepri Police with suspect MA.

1. Case

Alleged crime of "Indecent acts against children with threats of violence or seduction" which occurred on Wednesday, July 10, 2024 at approximately 22.30 WIB in Lembah Permai, Darussalam Subdistrict, Meral Barat District, Karimun Regency and on Wednesday, July 10, 2024 at approximately 22.45 WIB in Citra Permata housing, Parit Benut Subdistrict, Meral District, Karimun Regency, as referred to in "Indecent acts against children with threats of violence and seduction" as referred to in Article 82 Paragraph (1) of Law Number 17 of 2016 concerning the Determination of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection in conjunction with Article 76 E of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

2. The facts

- a. Summons, summons has been made to the witnesses with a summons letter and minutes have been prepared.
- b. Arrest, MA was arrested with an arrest warrant.
- c. Detention, MA was detained with a detention warrant.

Based on the information obtained from the witnesses and the suspect's statement, as well as the fulfillment of the elements of the crime of child molestation, the MA can be blamed as intended and regulated in the formulation of Article 82 paragraph (1) Jo 76E of Law Number 17 of 2016 concerning the Determination of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection, however, the further decision is left to the Judge who is trying the case.

¹⁵Alnovyan Harmindo Albla, Child Molestation Cases in Karimun Increasing, Prosecutor's Office Concerned That Perpetrators and Victims Are Still Minors, <https://www.batamnews.co.id>, accessed January 26, 2026.

Based on the case description above, it can be seen that the resolution of the crime of child molestation at the Karimun Police Resort was carried out by the PPA Unit through the investigation and inquiry mechanisms as stipulated in the Criminal Procedure Code. In the above case, investigators immediately followed up on the victim's family's report by conducting a series of examinations of both witnesses, the victim, and the perpetrator. Based on the results of the preliminary examination, the perpetrator was arrested and detained. Investigators also confiscated evidence related to the crime and requested a post-mortem examination at the Karimun Regency General Hospital.¹⁶

Every coercive measure taken by investigators, from summons, arrest, detention, and seizure of evidence, is accompanied by a warrant and a report is prepared for each action. In the case of the sexual assault involving suspect AM, the case was not pursued to prosecution and was resolved through restorative justice.¹⁷

Based on the results of the investigator's analysis based on the statements of witnesses, victims and perpetrators and strengthened by evidence, and by fulfilling the elements of the alleged crime, it is true that there has been a criminal act of molestation against a minor with the perpetrator AM and the victim PAW as regulated in Article 82 paragraph (1) Jo 76E of Law Number 17 of 2016 concerning the Determination of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection, with the threat of imprisonment of at least 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of IDR 5,000,000,000.00 (five billion rupiah).

In this case, the settlement was based on restorative justice, based on Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. The reason for resolving the case based on restorative justice was that the victim and perpetrator had reached a mutual agreement, and the victim no longer wished to pursue the case through legal proceedings. In this case, the perpetrator provided compensation to the victim in accordance with the mutual agreement. The victim's parents attempted to keep the case quiet because they did not want their child's problems, which had become a family disgrace, to be exposed and known to the public. Therefore, they chose to resolve the case amicably.¹⁸

The investigator provided information regarding follow-up to the case handling process in accordance with applicable SOPs, which stipulate that after the investigation is completed, the case will proceed to prosecution and trial. In this

¹⁶Results of an interview with Bripda Ramadhani Efendy, Head of Criminal Investigation Unit II of the Karimun Police Criminal Investigation Unit, January 20, 2026

¹⁷Ibid.

¹⁸Results of an interview with Orbin Richardo Siagian, Head of Criminal Investigation Unit II of the Karimun Police Criminal Investigation Unit, January 20, 2026.

case, the investigator did not provide suggestions or offer alternative options for resolution based on restorative justice.¹⁹

Initially, the victim's parents intended to pursue the case through the courts. However, after learning about the legal process, which would require the child to undergo several examinations up to and including the trial, they decided against it. They were concerned that the criminal justice process would further traumatize the child. They didn't want their child exposed, and the trial, which would discuss the molestation incident, would further traumatize the child.²⁰

The victim's and perpetrator's families have agreed that in resolving the sexual assault case, the victim's parents chose not to pursue the case. The victim's parents then moved their child to a different school and residence. For this process, there was an agreement between the perpetrator and the victim that the perpetrator would bear the costs as compensation and accountability for his actions. This peace agreement was reached between the victim and the perpetrator without the knowledge of the investigator. The investigator then decided to conduct a special case title and close the case based on restorative justice.²¹

In practice, in the crime of child molestation in case No: LP-B/30/VII/2024/SPKT/Karimun Police/Kepri Police, investigators resolved the case based on justice on the grounds that the victim's family no longer wanted to pursue the case to court because they wanted to protect the child victim from trauma and did not want their child to be exposed. In addition, there was a peace agreement between the victim and the perpetrator where the perpetrator provided compensation to the victim to finance the victim's move of residence and change of school.

Normatively, the resolution of the child molestation case has fulfilled both the material and formal requirements set out in Articles 5 and 6 of Law Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice, namely, it does not cause unrest and/or rejection from the community, does not impact social conflict, does not have the potential to divide the nation, is not radical or separatist, and is not a recidivist. Furthermore, a peace agreement has been reached, and the perpetrator has provided compensation in the form of costs incurred as a result of the crime, namely by financing the victim's move and schooling until graduation.

In this case, investigators settled the case on the grounds that the victim's family did not want to continue the process to protect the child from trauma, to achieve a peace agreement and compensation, and to avoid public exposure of

¹⁹Ibid

²⁰Ibid

²¹Ibid

the child. Sociologically and victimologically, these reasons are understandable, as the judicial process can lead to secondary victimization, and children are psychologically vulnerable victims.

Sociologically, the rationale for dismissing cases to protect children from trauma and public exposure can be understood as a form of social rationality in maintaining family stability and protection. Meanwhile, from a victimological perspective, the victim is the center of attention in the criminal justice system. This creates psychological vulnerability for children. Children, as victims, have immature psychological states. Repeated questioning, confrontations with the perpetrator, and the evidentiary process in court can exacerbate trauma.²²The judicial process also has the potential to give rise to secondary victimization, namely additional suffering experienced by victims due to legal procedures, cornering questions, or a lack of sensitivity from officials.²³Modern victimological approaches emphasize that victims need recognition of their suffering, psychological recovery, restitution or compensation, and guarantees of non-recurrence. Within this framework, peace agreements and compensation can be viewed as fulfilling victims' recovery needs, although normatively, they remain controversial.

The above description demonstrates that restorative justice can be understood as a mechanism for maintaining social harmony, avoiding stigma, and protecting children from public pressure. From a victimological perspective, there are considerations for protecting against trauma and preventing secondary victimization. However, sociological and victimological understandings do not automatically justify normative case termination, as sexual crimes against children also involve the public interest and the protection of children's rights more broadly.

The application of restorative justice in the crime of child molestation in the above case is a form of Polri discretion based on Article 18 of Law Number 2 of 2002 concerning the Republic of Indonesia National Police which states that "For the public interest, Polri officials can act according to their own judgment." The explanation of Article 18 states that what is meant by "acting according to their own judgment" is an action that can be carried out by members of the Republic of Indonesia National Police who in acting must consider the benefits and risks of their actions and are truly in the public interest. In the case of a child molestation case being stopped based on restorative justice, then the action has the potential to exceed the limits of discretion (abuse of discretion).

The resolution of criminal acts of molestation and sexual intercourse against

²²Arif Gosita, 1993, *Problems of Crime Victims*, Akademika Pressindo, Jakarta, p. 42.

²³G. Widiartana, 2014, *Victimology: The Victim's Perspective in Crime Prevention*, Cahaya Atma Pustaka, Yogyakarta, p. 6

children by adult perpetrators at the Karimun Police Resort which was resolved through a restorative justice mechanism was influenced by several factors as in Soerjono Soekanto's law enforcement theory, namely as follows:

1. Legal Factors

The laws that form the basis for resolving this case are Police Regulation No. 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice and Law No. 2 of 2002 concerning the Indonesian National Police. Police Regulation 8/2021 stipulates the material and formal requirements for RJ, including a peace agreement, compensation, and avoiding public unrest. Meanwhile, the Police Law grants investigators discretion to act in the public interest. However, normatively, child molestation by an adult remains a crime against the public interest, so terminating an investigation based on restorative justice presents a dilemma between complying with legal procedures and protecting the public interest.

2. Law enforcement factors

Investigators play a central role in determining whether restorative justice can be applied.²⁴ The investigator's decision constitutes discretion, as stipulated in Article 18 of Law No. 2 of 2002. In this case, the investigator assesses the victim's condition, family, and social impact before deciding on a peaceful resolution. This carries the risk of abuse of discretion if the public interest is ignored, as this case concerns child protection and a deterrent effect on the perpetrator.

The resolution of child molestation crimes based on restorative justice at the Karimun Police, although contrary to the principle of public interest in criminal law, is fundamentally in line with the progressive legal theory put forward by Satjipto Raharjo, which emphasizes that law must be alive, favor substantive justice, and serve as a means to resolve social problems. Within this framework, law is not only measured by written norms (law in books), but also by how the law realizes justice for victims, society, and perpetrators (law in action).²⁵

In the case No. LP-B/30/VII/2024/SPKT/Karimun Police/Kepri Police, investigators resolved the case based on restorative justice because the victim's family wanted to protect the child from trauma, there was a peace agreement and compensation, and the child was not exposed to the public. According to progressive law, this can be seen as an effort to ensure substantive justice for child victims. The focus is not merely on enforcing formal procedures, but rather prioritizing psychological protection, victim recovery, and social harmony. Restorative justice is a legal tool that facilitates the interests of victims while also

²⁴Soerjono Soekanto, 2011, *Sociology of Law: An Introduction*, Rajawali Pers, Jakarta, p. 2

²⁵Ibid., p. 15

providing perpetrators with the opportunity to take real responsibility.

Progressive law emphasizes that the law must resolve social problems arising from unlawful acts, not simply impose sanctions. In such cases, the conflict between the victim and the perpetrator is resolved through restorative justice, so that the victim receives protection and reparation (transferring schools, relocating, compensation), the perpetrator bears the social and financial consequences of their actions, and the surrounding community remains protected from social unrest because there is no public exposure that would harm the child. Therefore, restorative justice aligns with the principles of progressive law because it resolves social conflict and trauma, not just formal legal proceedings.

3.2. Weaknesses in the Restorative Justice-Based Resolution of Child Molestation and Sexual Intercourse Crimes at the Karimun Police Resort

The crime of child molestation in case No. LP-B/30/VII/2024/SPKT/Karimun Police/Kepri Police is a form of sexual violence case with an adult perpetrator. The case was reported by the victim's parents to the Karimun Police, who then conducted an investigation and named a suspect. However, after the investigation process was underway, the victim's family no longer wanted to pursue the case to the legal realm and wanted the case to be resolved based on restorative justice because there was already a peace agreement between the perpetrator and the victim. Ultimately, the Karimun Police granted the request and the investigation was stopped with a resolution based on restorative justice.

Restorative justice is essentially an approach that emphasizes recovery and problem-solving within the family, involving all affected parties, including victims, perpetrators, and their families. The goal is not to avoid legal liability for perpetrators, but rather to find appropriate and essential solutions for all parties. However, in practice, the application of justice remains controversial, particularly in cases of sexual violence involving children as victims and adults as perpetrators.²⁶

The resolution of the case based on restorative justice in this case is sociologically and victimologically understandable, as the formal justice process has the potential to lead to secondary victimization and worsen the psychological well-being of the child victim. However, upon closer analysis, the restorative justice mechanism in this case also has several significant weaknesses from a legal and public interest perspective. These weaknesses are as follows:

1. Contrary to statutory regulations

²⁶Rosmala, Endang Prasetyawati, and Angga Alfiyan, Implementation of the Criminal Act of Rape by Children from a Restorative Justice Perspective (Study at the Liwa District Court Number: 21/Pid.Sus/PN.Liw/2023), *Jurnal Hukum Respublica*, Vol. 23, No. 02, July 4, 2024, p. 104

The crime of sexual abuse against children in case Number LP-B/30/VII/2024/SPKT/Karimun Police/Riau Islands Police implemented restorative justice in resolving the case. This actually creates inconsistencies with applicable legal regulations, such as Law No. 35 of 2014 concerning Child Protection and its amendments, the Criminal Code, the Criminal Procedure Code, and Law No. 20 of 2025 concerning the Criminal Procedure Code (new Criminal Procedure Code). In addition, the steps taken by the Karimun Police are also inconsistent with the provisions of Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence, which states that cases of sexual violence cannot be resolved outside the judicial process, except against child perpetrators.

The mismatch between law enforcement practices and existing regulations raises concerns that restorative justice does not deter perpetrators, and the risk of perpetrators committing similar crimes is very high. Furthermore, this also impacts public perception, which finds it difficult to accept the resolution of sexual violence cases in a manner perceived as too lenient, especially when child victims are involved. Therefore, although restorative justice emphasizes the restoration and rights of perpetrators, its application in cases of sexual violence must be carefully considered to avoid injustice to victims and harm the public interest.

At the time of the case, investigators were still guided by the old Criminal Procedure Code (KUHAP), which did not regulate case resolution based on restorative justice. However, with the enactment of Law Number 20 of 2025 concerning the Criminal Procedure Code (New KUHAP) on January 2, 2026, future procedural law must be guided by the new KUHAP.

The resolution of criminal acts of child molestation by adult perpetrators through a restorative justice mechanism is a deviation from Article 82 of Law Number 20 of 2025 concerning the Criminal Procedure Code (New Criminal Procedure Code) which states that the Restorative Justice mechanism is excluded for:

- a. crimes against state security, crimes against friendly countries, heads of friendly countries and their representatives, crimes against public order, and crimes against morality;
- b. criminal acts of terrorism;
- c. criminal acts of corruption;
- d. crimes of sexual violence;

Based on the provisions of Article 82 letters a, d, e, and g of Law Number 20 of 2025 concerning the Criminal Procedure Code, the crime of child molestation cannot be resolved based on restorative justice. The crime of child molestation is a crime against morality that is threatened with a special minimum sentence,

and which has an impact on the public interest. Child molestation is regulated as a crime against morality with a minimum prison sentence of five years as stipulated in Law Number 35 of 2014. With the existence of special minimum sentence provisions, the legislators expressly qualify the act as a serious crime whose handling cannot be set aside through restorative justice mechanisms.

In practice, in the criminal case in case No: LP-B/30/VII/2024/SPKT/Karimun Police/Kepri Police, investigators resolved the case based on justice on the grounds that the victim's family no longer wanted to pursue the case to court because they wanted to protect the child victim from trauma and did not want their child to be exposed. In addition, between the victim and the perpetrator there was a peace agreement where the perpetrator provided compensation to the victim to finance the victim's move of residence and change of school. This reason cannot be justified normatively if it is based on the provisions of Article 82 letters a, d, e, and g of Law Number 20 of 2025 concerning the Criminal Procedure Code.

Child molestation, including sexual violence against children, is a serious crime that cannot be resolved through restorative justice mechanisms and must be severely punished. Sexual violence against children is a crime with far more serious consequences than other crimes because it directly affects the victim's future. It damages a child's future and causes lasting trauma, considering that children are the future generation and future leaders of the nation, so handling it more seriously is crucial.²⁷

The solution to this weakness is to emphasize the prohibition of restorative justice for certain cases. In this case, law enforcement officers must firmly use the TPKS Law and the New Criminal Procedure Code as the main guidelines, not discretion. The application of the principles of *lex superior* and *lex specialis* in cases of child sexual violence, the Child Protection Law and the TPKS Law must be prioritized. In addition, technical regulations (Perkap/Perpol) explicitly prohibit the application of restorative justice in sexual crimes against children. Therefore, it is necessary to strengthen supervision by prosecutors and judges, where restorative justice must obtain a judge's decision to ensure legal compliance. This is in line with the provisions of Article 84 of the New Criminal Procedure Code, which states that the investigator must notify the public prosecutor of the letter of termination of the investigation and request a decision from the head of the district court within a maximum period of 3 (three) days.

2. Restorative justice prioritizes private interests

Restorative justice in the above case prioritizes the private interests of the

²⁷Ferinda K Fachri, Experts Say Child Sexual Violence Cases Cannot Use Restorative Justice, <https://www.hukumonline.com>, accessed February 20, 2026

victim's and perpetrator's families, potentially neglecting the public interest. Child molestation is a crime that concerns the public interest because it involves the protection of children as part of society. With out-of-court settlements, the perpetrator's deterrent effect is not maximized, thus the risk of the perpetrator repeating his actions or posing a threat to other children remains. This demonstrates that restorative justice in practice has limitations in upholding the law's function as a tool for community protection.²⁸

The solution to this weakness is to emphasize that the nature of public crimes, in this case child molestation, must continue to be prosecuted even if a settlement is reached. Restorative justice is a complement, not a substitute, and should only be used for victim recovery (rehabilitation and restitution), not to dismiss the case. The state must also be actively involved in the judicial process to safeguard the interests of the wider community.

3. The use of investigator discretion as a basis for restorative justice has the potential to lead to abuse of discretion.

Article 18 of Law No. 2 of 2002 concerning the Indonesian National Police grants investigators the authority to act according to their own judgment in the public interest. However, in this case, investigators' decisions tend to prioritize the wishes of the victim's and perpetrator's families over the broader public interest. This raises questions about whether investigators' discretion has been used appropriately or has exceeded their authority.

The solution to this weakness is to strictly limit discretion, where discretion may only be used in minor cases, not serious crimes.

The solution to these weaknesses is a legally binding agreement, which must be formalized in a deed or court order. Furthermore, ongoing monitoring involving agencies such as the Child Protection Agency (Bapas), the Social Services Department, or child protection agencies is necessary. If the perpetrator fails to comply with the agreement, there must be legal consequences.

Based on the above description, it is clear that while restorative justice has advantages in minimizing victim trauma and maintaining social harmony, this mechanism has significant weaknesses when used in child molestation cases. These weaknesses include disregard for the public interest, the potential for abuse of investigator discretion, an overly private and financial focus, a lack of long-term oversight, and the risk of setting a precedent that undermines criminal law. Therefore, the implementation of restorative justice must be carried out under strict supervision, while still taking into account the public interest, and complemented by formal mechanisms that ensure comprehensive child protection.

²⁸Moeljatno, 2008, *Principles of Criminal Law*, Rineka Cipta, Jakarta, pp. 3–5

The weaknesses in resolving the criminal acts of child molestation and abuse in case No. LP-B/30/VII/2024/SPKT/Karimun Police/Kepri Police can be analyzed according to Soerjono Soekanto's law enforcement theory which states that law enforcement is influenced by five main factors, namely legal factors, law enforcement, facilities and infrastructure, society, and culture.

Based on legal factors, the crime of child molestation is a serious crime regulated by Law No. 35 of 2014 concerning Child Protection and its amendments. With the enactment of Law No. 20 of 2025 concerning the Criminal Procedure Code, the restorative justice mechanism is excluded for crimes against morality, sexual violence, and special minimum sentences. The application of restorative justice in this case is contrary to legal provisions, so even if there is a family agreement, resolution solely through restorative justice does not meet formal legal requirements and has the potential to undermine legal certainty.

From a law enforcement perspective, investigators' discretion in resolving cases based on restorative justice is guided by Article 18 of Law Number 2 of 2002 concerning the Indonesian National Police, which grants them the freedom to act in the public interest. However, in practice, investigators' decisions often prioritize the wishes of the victims' and perpetrators' families, rather than the public interest. This raises the risk of abuse of discretion, where law enforcement uses their authority for private gain, diminishing the law's role as a tool for protecting society and providing a deterrent effect.

From a societal perspective, families' decisions to resolve cases amicably are partly influenced by social norms, namely the desire to protect children from stigma and public exposure. However, public ignorance about child legal protection and criminal justice mechanisms leads them to prefer private resolution. This can lead to injustice for other victims and misperceive the public's perception of the seriousness of child sexual crimes.

From a cultural perspective, the culture of deliberation and maintaining family honor encourages a preference for peaceful resolution. While sociologically understandable, this cultural orientation limits the function of formal law and shifts the focus from public to private interests. As a result, the deterrent effect of criminal law on perpetrators is diminished, and weak legal precedents can be established in society.

4. Conclusion

1. The resolution of child molestation crimes based on restorative justice is based on Police Regulation No. 8 of 2021 due to a request from the victim's family and a peace agreement with the perpetrator. Sociologically and victimologically, this rationale can be understood as an effort to protect children from secondary victimization and social stigma. However, normatively, it raises issues because child molestation is a serious crime concerning the public interest and carries a

special minimum sentence. The application of restorative justice contradicts statutory regulations and exceeds investigators' discretion, creating tension between the psychological protection of victims and the certainty and effectiveness of criminal law enforcement. 2. Weaknesses in resolving crimes of child molestation and sexual intercourse based on restorative justice include the potential for conflict with laws and regulations, neglect of the public interest, and weakening of the preventive and repressive functions of criminal law. Furthermore, the use of investigator discretion, the focus on private resolution and financial compensation, the lack of long-term oversight, and the low level of public legal understanding have the potential to create precedents that undermine the firmness of law enforcement against sexual crimes against children.

5. References

Journals:

Abdul Haris, Umar Ma'ruf, and Sri Kusriyah, Role And Function Of Attorney In Order To Optimize The Prevention Of Corruption Through Establishment Of TP4P/D (Case Studies In State Attorney Of Grobogan), *Jurnal Daulat Hukum*, Vol. 2 No. 4, Desember 2019.

Andin Dwi Safitri dan Khalimatuz Zuhriyah, Pengertian Tindak Pidana Dan Unsur-Unsur Tindak Pidana, *Jurnal Judiciary*, Vol. 14 No. 1 Tahun 2025.

Anton Rudiyanto, Fungsi Sidik Jari Pelaku Tindak Pidana Pembunuhan (Studi Kasus Di Polres Tegal), *Jurnal Hukum Khaira Ummah*, Volume 12 Nomor 4 Desember 2017.

Arpangi, Maydika Ramadani, Cindy Yosiana, Optimizing Penal Mediation through Restorative Justice: A Progressive Solution in Criminal Law Reform, *Justice Journal Dialectical*, Volume 2, Issue 2, 2024.

Denie Widya Rahardja and Andri Winjaya Laksana, Implementation of Restorative Justice in Cases of Physical Violence Against Children, *Legis Ratio Journal*, Volume 4 No. 1, March 2025.

Hyronimus Rhiti, Landasan Filosofis Hukum Progresif, *Fakultas Hukum, Justitia Et Pax*, Volume 32 Nomor 1, Juni 2016.

Moh Junaidi, Arpangi, R. Sugiharto, The Supreme of the Child Criminal Jurisdiction System in Protecting Children's Rights that Deals with the Law, *Ratio Legis Journal*, Volume 1 Nomor 2, June 2022.

Novita Ilmaris and Arpangi, Reform of Bureau of Public Services in Framework of Prevention & Eradication of Corruption in Indonesia, *Law Development Journal*, Volume 2 Issue 4, December 2020.

Nur Indah Setyoningrum and Anis Masdurohatun, Restorative Justice in Children's Criminal Jurisdiction System Through Diversion, *Law Development Journal*, Volume 2 Issue 4, December 2020.

Rosmala, Endang Prasetyawati dan Angga Alfiyan, Implementasi Hukum Tindak Pidana Pemerkosaan Oleh Anak Ditinjau Dari Restorative Justice (Studi Pada Pengadilan Negeri Liwa Nomor: 21/Pid.Sus/PN.Liw/2023), *Jurnal Hukum Respublica*, Vol. 23, No. 02, July 4, 2024.

Sri Endah Wahyuningsih, Rismanto, Kebijakan Penegakan Hukum Pidana Terhadap Penanggulangan Money Laundering Dalam Rangka Pembaharuan Hukum Pidana Di Indonesia, *Jurnal Pembaharuan Hukum*, Volume 2 Nomor 1, Januari-Aril 2015.

Widayati, Penegakan Hukum Dalam Negara Indonesia Yang Demokratis, *Pledoi (Jurnal Hukum dan Keadilan)*, Vol.1 No.1, September 2022.

Books:

Amrani, Hanafi, 2019, *Politik Pembaruan Hukum Pidana*, UII Press, Yogyakarta.

Dellyana Shant, 1988, *Konsep Penegakan Hukum*, Liberty, Yogyakarta

Djoko Prakoso, 1988, *Perkembangan Delik-Delik Khusus di Indonesia*, Aksara Persada Indonesia, Jakarta.

Ilhami Bisri, 2012, *Sistem Hukum Indonesia Prinsip-Prinsip dan Implemenasi Hukum di Indonesia*, Rajawali Pres, Jakarta.

Ishaq, 2012, *Dasar-Dasar Ilmu Hukum*, Sinar Grafika, Jakarta.

Jawade Hafidz Arsyad dan Dian Karisma, 2018, *Sentralisasi Birokrasi Pengadaan Barang & Jasa Pemerintah*, Sinar Grafika, Jakarta.

Kurniawan, 2022, *Restorative Justice dan Perlindungan Anak di Indonesia*, Pustaka Hukum, Yogyakarta.

Lamintang, 1990, *Delik Khusus*, Mandar Maju Bandung.

Leden Marpaung, 2005, *Asas-Teori-Praktik Hukum Pidana*, Sinar Grafika, Jakarta.

M. Djunaidi Ghoni dan Fauzan Almansur, 2012, *Metodologi Penelitian Kualitatif*, ar-Ruzz Media, Yogyakarta.

Moeljatno, 2008, *Asas-asas Hukum Pidana*, Sinar Grafika, Jakarta.

- Moh. Mahfud MD e.t. al, 2011, *Satjipto Rahardjo dan Hukum Progresif Urgensi dan Kritik*, Seri Tokoh Hukum Indonesia, Epistema Institute dan HuMa, Jakarta.
- Mukti Fajar ND dan Yulianto Achmad, 2013, *Dualisme Penenlitian Hukum Normatif dan Empiris*, Pustaka Pelajara, Yogyakarta.
- Nurul Irfan dan Masyrofah, 2013, *Fiqh Jinayah*, Amzah, Jakarta.
- Oxford Learner's Pocket Dictionary (New Edition), Edisi ketiga; Oxford University Press, Oxford.
- Pius A Partanto dan M. Dahlan Al Barry, 2001, *Kamus Ilmiah Populer*, Arkola, Surabaya.
- R. Sugandhi, 1998, *Kitab Undang-Undang Hukum Pidana dan Penjelasannya*, Usaha Nasional, Surabaya.
- Rahmat Hakim, 2000, *Hukum Pidana Islam (Fiqh Jinayah)*, CV. Pustaka Setia, Bandung.
- Rena Yulia, 2010, *Viktimologi Perlindungan Hukum Terhadap Korban Kejahatan*, Graha Ilmu, Yogyakarta.
- Satjipto Rahardjo, 2003, *Sisi Lain dari Hukum di Indonesia*, Buku Kompas, Jakarta.
- Soerjono Soekanto, 2011, *Sosiologi Hukum: Suatu Pengantar*, Rajawali Pers, Jakarta
- Sudarto, 2018, *Hukum Pidana I*, Edisi Revisi, Yayasan Sudarto, Semarang.
- Sudikno Mertokusumo, 2010, *Mengenal Hukum*, Universitas Atma Jaya, Yogyakarta.
- Syaiful Bakhri, 2015, *Sistem Peradilan Pidana Iindonesia*, Pustaka Pelajar, Yogyakarta.
- Teguh Prasetyo dan Abdul Halim Barkatullah, 2005, *Politik Hukum Pidana: Kajian Kebijakan Kriminalisasi dan Dekriminalisasi*, Pustaka Pelajar, Yogyakarta.
- Thomas Hidya Tjahya, 2004, *Humanisme dan Skolastisisme*, Kanisius, Yogyakarta.
- Wirdjono Prodjodikoro, 2003, *Asas-Asas Hukum Pidana di Indonesia*, Bandung : Refika Aditama.

Regulation:

Criminal Code

Criminal Procedure Code

Law Number 2 of 2002 concerning the Republic of Indonesia Police.

Law Number 23 of 2002 concerning Child Protection as amended into Law Number 35 of 2014 and last amended into Law Number 17 of 2016

Regulation of the Chief of the Republic of Indonesia National Police Number 6 of 2019 concerning Criminal Investigation.

Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice.

The 1945 Constitution of the Republic of Indonesia