



Resolving criminal acts of sexual abuse committed by children against children using a restorative justice approach in the Kudus police area

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ABSTRACT

Currently the Kudus Resort Police is prioritizing preventing the rise of sexual crimes where the perpetrators and victims are children, by providing education to students so that they can use social media wisely. This research is qualitative research. The approach method used in this research is a sociological/non-doctrinal juridical approach. The data from the research comes from primary data and also secondary data which is then analyzed descriptively qualitatively. The results of the research show that: 1) Resolving criminal acts of sexual harassment committed by children against children using a restorative justice approach can be concluded as follows, that sexual harassment is carried out by children against children is a serious problem that requires appropriate treatment. The restorative justice approach offers a different approach in resolving this case, with a focus on victim recovery, building understanding, and responsibility for the perpetrator. So, in order for its implementation to be appropriate and good, it must pay attention to the following matters: Identification and Understanding of Cases, Involvement of Related Parties, Recovering Victims, Fostering Empathy and Responsibility, 2) Obstacles that may be faced in resolving criminal acts of sexual abuse committed by children against children. children with a restorative justice approach include: The need for safety and protection for victims, difficulty reaching an agreement, complexity of the case, lack of cooperation from the perpetrator, limited resources, legal challenges.

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1. Introduction

Children are a valuable asset for a nation, and as part of the young generation, they play a strategic role as the nation's successors (Aisara et al., 2020). In Indonesia, children are the successors of the ideals of the nation's struggle. They are the hopes of their parents, the hopes of the nation, and the hopes of the country in continuing development and ensuring the existence of the nation and state in the future. Children have an important role and have special characteristics that will ensure the survival of the nation (Santriati, 2020).

In this case, it is important to prioritize special treatment and protection for children. They have rights that must be fulfilled and obligations that must be carried out. Child protection involves the responsibility of parents, society and the state to ensure that children's

rights are well protected. Children should be given different protection to adults, taking into account their different needs and weaknesses. Child protection includes the right to receive protection from both parents, society and the state (Syahputri, 2022).

This includes children's rights to access to education, health care, adequate nutrition, safe housing, and protection from violence, exploitation, and discrimination. In addition, children (Arief & Ambarsari, 2018) also have the right to participate in decision making that affects their lives, as well as the right to express and develop their potential. By providing special treatment and protection to children, we encourage them to grow and develop well, and become a generation that is empowered and able to continue the nation's struggle and ideals. Therefore, attention and investment in protecting and helping children is a very important investment for the future of the nation and state (Julaeha, 2019).

The development of the era which is marked by progress in all fields, especially regarding technological advances which make it easier to access all information, both positive and negative, will of course have a direct impact on children's psychological development. (MALAU, nd). Moreover, their mental instability makes it very difficult to control negative influences which will lead to criminal acts committed by children. Because they have the right to receive special treatment, especially for children who have deviant behavior and lead to criminal acts that require guidance. So as an effort to foster and provide child protection for children who are in conflict with the law, support is needed both in terms of institutions and legal instruments which are realized in a special justice system that handles children who are different from adults. (Ahmad et al., 2023).

The emergence of laws and regulations specifically intended for children, including Government Regulations in Lieu of Law Number 1 of 2016 concerning the second amendment to Law No. 23 of 2002 concerning Child Protection and Law no. 11 of 2012 concerning the Juvenile Criminal Justice System, has a very positive impact, because this regulation aims to ensure the fulfillment of children's rights so that children can live, grow and participate optimally in accordance with human dignity. The law also aims to protect children so that they receive protection from violence and discrimination, in order to create quality, healthy, intelligent, noble and prosperous Indonesian children. (Rachmawati, 2021).

In the case of neglect of a child who is in conflict with the law, then an action is taken that exceeds the child's capabilities as a consequence of being held accountable for his actions, then here there has actually been unfair treatment of the child. (Sunarso et al., 2022). This will cause children's moral and psychological maturity to not develop naturally if they are faced with the reality of prison which contains elements of violence and bad influences and are far from their families. This shows that a criminal approach that focuses on punishment has not been effective in dealing with the problem of child delinquency. A justice system that simply puts children in prison does not provide adequate solutions to help children improve their behavior and prevent them from being involved in crime in the future (UTO MO, 2023).

In this context, the restorative justice approach previously discussed could be a better alternative (Candra, 2020). This approach recognizes that children involved in criminal acts are influenced by many factors outside themselves and the need to involve all relevant parties, including victims, perpetrators, families and communities, in the resolution process. This approach emphasizes recovery, rehabilitation, and reconciliation, with a focus on restoration of relationships, responsibility, and moral improvement. By involving children in a resolution process that is inclusive and considers their needs and development, a restorative justice approach can help children change their negative behavior, improve social relationships, and provide opportunities for them to grow and develop positively (Prayoga & Rinaldi, 2023).

One solution that can be taken in handling child crime cases is a restorative justice approach which will provide justice for both parties, both the perpetrator and the victim, this is because children still have a long future and have dreams that will still be achieved. (Erdianti, 2020). Restorative justice means justice that focuses on restoring the relationship between the victim and the perpetrator. This restoration of relations is based on mutual agreement between the victim and the perpetrator. Victims have the opportunity to convey the losses they have experienced, while perpetrators are given the opportunity to atone for their mistakes through

compensation mechanisms, peace, social work, or other agreements. This approach is very effective and important because in the conventional punishment process, victims and perpetrators are not given space to actively participate in solving their problems. Every criminal act, regardless of the level of escalation, will be directly handled by law enforcement, and active participation from the community becomes less important.

All of them focus on criminal decisions or sentences without paying attention to the essence of the underlying problem (Srijadi, 2023). In the context of restorative justice, the importance of active participation from all parties involved, including the community, is highly recognized. This approach recognizes that solving crime problems is not only the responsibility of the criminal justice system, but also involves the role of society in rebuilding trust, improving social relations, and preventing future criminal acts. (Ginting et al., 2024). By paying attention to the essence of the problem, restorative justice provides space for the parties involved to dialogue, reach an agreement, and take responsibility for their actions. This approach seeks to create more holistic justice, paying attention to the psychological and social impacts of criminal acts, as well as promoting better reconciliation and rehabilitation in society. (Aryadi, 2021).

The presence of a restorative justice approach system is a change that provides the right solution in handling the problem of child delinquency. (Sudewo, 2021). This approach needs to be seriously considered in handling child delinquency problems because it involves all parties in the resolution process. In this approach, all parties involved, such as perpetrators, victims, parents and communities, are given the opportunity to sit together and discuss (Amelya, 2023).

The main goal of the restorative justice approach is to restore all losses arising from incidents of child delinquency. Apart from that, this approach also aims to improve children's morals so that they do not repeat their actions in the future. By using this approach, imprisonment which can have a negative impact on children's physical, mental and psychological development can be avoided (Fad, 2019). This is because the restorative justice approach emphasizes recovery and rehabilitation, as well as providing opportunities for children to correct their mistakes through a fair process and involving all relevant parties. (Eleanora & Masri, 2018). Thus, this approach can help create a better environment for children involved in delinquency problems, while providing hope for a better future. (Fitri, 2020).

The restorative justice process is considered better than the currently applicable approaches and treatment methods (Eleanora & Masri, 2018). This is a new way of thinking or a new paradigm in dealing with crimes committed by someone. As initiators and facilitators in handling children in conflict with the law, law enforcement officials, especially the police, should invite all parties involved, including perpetrators, victims, parents, local communities and schools to sit together in a meeting. The meeting aims to discuss together the resolution process using a restorative justice approach. This system is a fair approach because it involves all parties involved in a criminal act, including the perpetrator, victim, their family and other related parties. Together, they seek solutions to criminal acts and their implications with an emphasis on restoration rather than vengeful punishment (Pratama et al., 2023).

Restorative justice is an effort to support and implement the provisions contained in Article 16 of Law Number 23 of 2002 concerning Child Protection. The article states that:

"Detention arrest or the crime of child imprisonment is only carried out if it is in accordance with applicable law and can only be done as a last resort".

Currently, the Police of the Republic of Indonesia in the Kudus Resort Area are intensively implementing a restorative justice approach system, especially for criminal acts committed by children. (Isnawan, 2023)a. This is done by considering the condition of the child's psychological development. Because the application of the conventional punishment system will be very detrimental to children both in terms of physical, mental and future development of the child.

The child immoral video case that occurred in the Kudus Police area between person A, who is still a class IX student at the State First Middle School in Kudus Regency, and person B, who incidentally also has the status of a class X student at the Vocational High School in Kudus Regency. Person A and Person B have been in a relationship as lovers for approximately two years and they are inseparable lovers. The two have had a long relationship and both of them

like watching pornographic videos, making them want to act out scenes like those in the video. Then the two of them took the initiative to rent a boarding room in the Kudus Regency area (Sholehoddin & Ihya, 2023). In the room, the two of them had intimate relations with each other like husband and wife repeatedly and it was always recorded using the woman's (B) cellphone at the woman's own request. One day, B's cellphone was left at home and his mother opened it, after seeing the video scene that her child had made, then B's parents complained to the Kudus Police, who then summoned A and his parents and B also and his parents.

Furthermore, the Kudus Police carried out mediation efforts by resolving the problem using family consultation because they remembered that each of them was still a minor and still had the status of a student. Based on mutual agreement, the case was resolved using a restorative justice approach which required A to pay a fine of 40 million as compensation money.

2. Method

In research, there are generally three types of data collection tools, namely the study of documents or library materials, observations, and interviews. These three types of data collection tools can be used individually or in combination to get the maximum possible results (Nur & Utami, 2022). This is because each type of data collection tool has its strengths and weaknesses. An interview or interview is a way of obtaining data by means of dialogue carried out by an interviewer to obtain information from the interviewee. Observation is a researched and systematic observation, where the researcher is in the environment and makes observations without the observer realizing it (Tanjung et al., 2021). Researchers who use this data collection tool can directly obtain the data they want regarding behavior (law) at that time. The data collection tool that will be used in a legal research depends on the scope and objectives of the research (Astuti, 2019). However, there are several tools commonly used in legal research, namely Document/Library Material Study, Interviews, Observations, Questionnaires, and Focus Groups. The data that has been collected through data collection activities does not provide any meaning for the research objectives. The research cannot yet draw conclusions for its research objectives because the data is still raw material, so effort is needed to process it (Abdillah et al., 2021). The process carried out is by checking and researching the data obtained to ensure whether the data can be accounted for in accordance with reality. After the data is processed and deemed sufficient, it is then presented in the form of sentence descriptions.

3. Analysis and Results

3.1. How to resolve criminal acts of sexual abuse committed by children against children using a restorative justice approach in the Kudus district police area.

The development of the digitalization era which is sweeping the entire world, including in Indonesia, has both good and bad impacts on society. On the positive side, people can easily access various information, science, arts and culture, as well as carry out fast communication via platforms such as Whatsapp (WA), Instagram (IG) and Facebook (FB). However, it cannot be ignored that the negative impacts are also significant. Ease of access to news content that may be negative, such as crime news, pornographic videos, and films with violent and criminal content, is a problem that deserves attention. The inability to protect society from these negative impacts can have serious impacts on psychological well-being and behavior, which in turn can increase levels of crime or lawlessness. Ironically, both perpetrators and victims, especially minors, are vulnerable to these impacts. In the Kudus Police area, for example, from 2021 to 2023, there were a number of criminal acts where the main victims were minors, especially sexual crimes against underage girls. From the data obtained from the Kudus Police, it can be seen in the table below:

Resolving criminal acts of sexual abuse committed by children against children using a restorative justice approach in the Kudus police area. (Andrias Wibowo)

Table 1
Data on Crimes Against Children

No	Name of Crime	Year	Amount
1	Violence Against Children	2021	4
		2022	-
		2023	1
2	Sexual intercourse with children	2021	11
		2022	2
		2023	6
3	Obscene Acts Against Children	2021	3
		2022	5
		2023	3
4	Crime of Sexual Violence (TPKS)	2021	-
		2022	-
		2023	1
5	Criminal Act of Employing Minors	2021	-
		2022	1
		2023	-
Total number			37

Sexual crimes against women, especially against minors, are currently significant. This is in line with the statement by the National Commission on Violence Against Women that violence against women has become the most serious issue and has become a concern for the world and the Indonesian government in recent years. Violence against women increases every year, even reaching 431,471 cases of violence against women in 2019. In 2020 the number of violence against women decreased to 299,911 cases. Forms of violence that occurred in 2020 included domestic violence at 79% (6480 cases), dating violence at 20% (1309 cases) and violence against girls at 15% (954 cases). It was then emphasized again that forms of violence against women are explained by, among others, (1) Physical violence in the form of hitting, slapping, choking, and so on; (2) Psychological violence: shouting, swearing, threatening, harassing and so on; (3) Sexual violence such as carrying out actions that lead to sexual advances such as touching, kissing, forcing sex without the victim's consent and so on; (4) Financial violence, namely taking goods and not providing financial needs; (5) Spiritual violence, namely degrading beliefs and beliefs and forcing people to practice certain rituals and beliefs. Violence against women in the digital era has experienced an evolution which is often referred to as the evolution of violence against women. Violence against women in the digital era often does not involve direct physical interaction, but women become the objects of content on digital media.

Table 2
Data on Sexual Crimes Against Children

No	Name of Crime	Year	Amount
1	Sexual intercourse with children	2021	11
		2022	2
		2023	6
2	Obscene Acts Against Children	2021	3
		2022	5
		2023	3
3	Crime of Sexual Violence (TPKS)	2021	-
		2022	-
		2023	1
Total number			31

Crimes or criminal acts against children, especially criminal acts of sexual violence, of course require special handling that is different from handling criminal acts committed by adults. This is because children still have a very long future, so the appropriate handling is through restorative justice. The handling pattern carried out by the Kudus Resort Police is to apply restorative justice to criminal acts of child sexual violence, this is because the ages of both the perpetrators and victims are all still minors. Special handling of juvenile crimes through restorative justice in accordance with Article 5 paragraphs 1, 2 and 3 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

According to Hendro Santiko, there are several methods used by the Kudus Resort Police to resolve criminal acts of sexual violence committed by children, namely: First, both parties are summoned for questioning, then peace is offered, if it is found that the victim is pregnant then consequences are offered. to get married immediately apart from other consequences. Second, the perpetrator's parents were given a message to supervise their children in daily social interactions. Third, both the perpetrator and the perpetrator's parents were ordered to apologize to the victim and the victim's parents and be willing to provide compensation that is appropriate and in accordance with the victim's and other people's requests.

Hilda further said that: "The most important thing in implementing restorative justice is that the child (perpetrator) and the perpetrator's parents make a written agreement in front of the victim and their parents which is witnessed by the police, which states that the perpetrator will not commit criminal acts of sexual violence or other crimes. other criminal offenses, and if they violate then they are willing to be dealt with in accordance with other general criminal offences. A similar opinion regarding resolving criminal acts of sexual violence against children with restorative justice, Noor Hani'ah believes that there are several things that need to be considered in implementing restorative justice, namely (1) Case Identification and Understanding, (2) Involvement of Relevant Parties, (3) Recovering Victims, and (4) Fostering Empathy and Responsibility, these four things are substantive matters in handling through restorative justice.

From the description above regarding the resolution of criminal acts of sexual abuse committed by children against children using a restorative justice approach, it can be concluded as follows, that sexual abuse committed by children against children is a serious problem that requires handling. Then Any Ismayawati said that: "Handling the act child crime, especially sexual violence, through restorative justice is appropriate, this is in accordance with Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning Handling of Criminal Acts, but the most important thing is not only in its application but how to provide understanding to the perpetrator so that he does not repeat his actions again and is ordered to promise in writing not to repeat his actions again and promises that if he violates, he will receive the consequences of punishment in accordance with the treatment of criminal acts committed by adults. This was further emphasized by Any Ismayawati, that what is no less important is intensively encouraging supervision factors carried out by parents. Parents' busy work and preoccupation with cell phones at home will cause children to do things that result in criminal acts being committed.

Then Any Ismayawati said that: "x 11 of 2012 concerning the Juvenile Criminal Justice System and Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning Handling of Criminal Acts, but the most important thing is not only the implementation but how to provide understanding to the perpetrators so that they do not repeat their actions. again and ordered to promise in writing not to repeat the act again and promise that if they violate it, they will receive the consequences of punishment in accordance with the treatment of criminal acts committed by adults. Furthermore, Any Ismayawati emphasized that what is no less important is intensively encouraging supervision factors carried out by parents. Parents' busy work and preoccupation with cell phones at home will cause children to do things that result in criminal acts being committed by their minor children. because children feel a lack of attention

from their parents and then they look for social interactions outside without being able to sort out and protect which ones will have a negative impact and which ones will have a positive impact, resulting in an action that violates the law.

1.2. 3.2. Obstacles Faced in Resolving Criminal Acts of Sexual Abuse Permitted by Children Against Children Using a Restorative Justice Approach in the Kudus Regency Police Area

The rise in crimes committed by children, especially violent crimes committed by children and the victims are also children, certainly requires special attention from various parties, especially the police. Because the solution cannot be done like the solution for adult perpetrators, this is because children still have a long future. So the right effort is to implement restorative justice. Resolving criminal acts of sexual abuse committed by children against children using a restorative justice approach in the Kudus Regency Police Area is not easy, there are several obstacles faced which could hinder its implementation.

According to Hendro Santiko, that: "The main obstacle faced by the Kudus Resort Police in carrying out restorative justice for criminal acts of sexual violence against child perpetrators and their victims who are also children is firstly, the victim's parents do not accept the perpetrator's actions against their child, because they consider the abuse to have been Trampling on their self-esteem, the two child victims experienced deep psychological impacts and trauma due to the sexual abuse they received, and recovery takes time. Because parents consider punishment to be appropriate as a consequence of the perpetrator's actions and can be a lesson for the perpetrator and also the perpetrator's parent.

Hilda further said, that "an obstacle in implementing restorative justice for perpetrators of sexual crimes committed by children and child victims is that parents feel worried about the child's future, because the status of a victim of sexual abuse can make their child scorned and make the child depressed and traumatized. so he doesn't want to leave the house and hang out with his friends. These obstacles can be seen from several cases handled by the Kudus Resort Police, only a few cases ended in restorative justice, and can be seen in the table below

Table 3
Data on sexual crimes against children that have gone through resolution
Restorative Justice

No	Name of Crime	Year	Amount	Information			
				RJ	P21	Stage 1	Stop Searching
1	Sexual intercourse with children	2021	11	1	9	-	1
		2022	2	-	2	-	-
		2023	6	1	5	-	-
2	Obscene Acts Against Children	2021	3	-	3	-	-
		2022	5	-	5	-	-
		2023	3	-	2	1	-
3	Crime of Sexual Violence (TPKS)	2021	-	-	-	-	-
		2022	-	-	-	-	-
		2023	1	1	-	-	-

Any Ismayawati emphasized that "there are several things that become stumbling blocks or obstacles in resolving criminal acts of sexual violence with child victims, first, there is no certainty regarding the safety of the victim, because it is possible that the perpetrator from a respected family will intimidate the victim and his family, while it is impossible for the police to guard and protect at all times, secondly, legal challenges, indeed regarding restorative justice there are already regulations that regulate it, but in its implementation there are loopholes what if the perpetrator is an adult or even from his own close family, so these regulations are very difficult to be implemented, and thirdly, the complexity of the case, in cases of sexual violence experienced by children, it is not only the physical impact of the victim, but psychologically it is

also affected, causing prolonged severe trauma, making it difficult to carry out restorative justice.

Noor Hani'ah added the obstacles to the implementation of restorative justice as stated above, arguing that: "There are several obstacles that will be faced by the Police in implementing restorative justice in cases of criminal acts of sexual violence involving child perpetrators and child victims, namely, (1) Difficulty reaching an agreement, the ego of the victim's family feels that their self-esteem has been violated and the child's future has been tarnished is an obstacle in reaching an agreement in mediation, they consider that restorative justice only benefits the perpetrator, because they are only burdened with material problems, while the victim will psychologically haunt forever, (2) There is no cooperation from the perpetrator, sometimes if the perpetrator comes from a respectable family and feels they can buy or play with the law, they will refuse mediation carried out by the police, and third, Limited resources, it is not uncommon for perpetrators to come from families who do not have so it is very difficult to provide fines as compensation for victims, so they will prefer to serve the sentence as atonement for their crimes.

4. Conclusion

From the description above regarding the resolution of criminal acts of sexual abuse committed by children against children using a restorative justice approach, it can be concluded as follows, that sexual abuse committed by children against children is a serious problem that requires appropriate handling. The restorative justice approach offers a different approach in resolving this case, with a focus on victim recovery, building understanding, and responsibility for the perpetrator. So, in order for its implementation to be appropriate and good, it must pay attention to the following things: Identification and Understanding of Cases, Involvement of Related Parties, Recovering Victims, Developing Empathy and Responsibility: Restorative justice promotes the development of empathy on the part of perpetrators towards victims and strengthens their responsibility for their actions. them, Establishment of Restorative Agreements, Monitoring and Evaluation. Once a restorative agreement is created, it is important to monitor and evaluate its implementation. This ensures that all parties adhere to their commitments and that the recovery process runs smoothly. If necessary, adjustments can be made to ensure fairness and optimal recovery for all parties involved. With a restorative justice approach, resolving criminal acts of sexual abuse committed by children against children can promote holistic recovery, strengthen individual responsibility, and rebuild damaged relationships in the community. Obstacles that may be faced in resolving criminal acts of sexual abuse committed by children against children using a restorative justice approach include: The need for safety and protection for victims, difficulty reaching an agreement, complexity of the case, lack of cooperation from the perpetrator, limited resources, legal challenges. Even though it faces a number of obstacles, the restorative justice approach remains a valuable approach in resolving criminal acts of sexual abuse committed by children against children. With proper awareness and cooperation from all relevant parties, many of these obstacles can be overcome to achieve more holistic justice and healing for victims and affected communities.

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