



## **Children as Perpetrators of Crimes of Abuse (A Review of Restorative Justice Completion in Indonesia)**

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**Abstract:** This research aims to explain the phenomenon of children as perpetrators of violent crimes and examine the restorative resolution approach in Indonesia. In recent years, there has been an increase in the number of cases of violence involving children as perpetrators in Indonesia. The existence of children as perpetrators of violent crimes raises serious concerns about the future of the younger generation and the security of society. The research method used in this writing is Juridical Sociological research and uses a qualitative research approach that is descriptive in nature and uses interactive analysis techniques. The research findings show that the restorative resolution approach has been recognized as a more effective alternative and focuses on victim recovery, offender development, and social reintegration. Restorative resolution involves a process of mediation and dialogue between the victim, offender and the community. The results show that this approach provides space for juvenile offenders to understand and take responsibility for their actions, while victims can express the psychological and emotional impact they have experienced.

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

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## 1. Introduction

In the criminal justice process, of course it will be very unfair when children are in the same position as adults when dealing with the law. Therefore, in legal cases involving children, at least one must pay close attention to what the rights of the child are in order to respect and guarantee the rights of children as legal subjects who will continue the ideals of the nation and state.<sup>1</sup>

A child is someone who is still small, both male and female, who has not yet seen the physical signs of an adult. Based on the legal perspective that the age limit for a child is someone who has not reached the age of 18 years. In law no. 11 of 2012 concerning the Juvenile Criminal Justice System Article 1 paragraph 3 states that; A child in conflict with the law is a child who is 12 (twelve) years old but not yet 18 (eighteen) years old who is suspected of committing a crime. So from the elucidation of the article, we can see that if someone aged 12 to 18 years can be categorized as a juvenile crime. However, it is different from several villages which still adhere to the settlement of cases, especially criminal cases of children outside the court, which is called restorative justice.

Restorative Justice Approach is an approach that refers to the conditions for the creation of justice and balance for the perpetrators of crime and the victims themselves. Which in this case means that there is an agreement between the two parties concerned.<sup>2</sup>

A child is someone who is still small, both male and female, who has not yet seen the physical signs of an adult. Based on the perspective of the law, the age limit for a child is someone who has not reached the age of 18 years. 11 of 2012 concerning the Juvenile Criminal Justice System Article 1 paragraph 3 states that; A child in conflict with the law is a child who is 12 (twelve) years old but not yet 18 (eighteen) years old who is suspected of committing a crime.<sup>3</sup> So from the elucidation of the article, we can see that if someone aged 12 to 18 years can be categorized as a juvenile crime. However, it is different from several villages which still adhere to the settlement of cases, especially child criminal cases outside the court, which is called Restorative Justice.

In the context of the crime of abuse committed by a child, there is a question whether the child understands what he is doing, actually does it, or does he clearly understand that he is acting on the child's power relations when the crime is committed.<sup>4</sup> In

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<sup>1</sup> Candra Ulfatun Nisa dan Nyoman Serikat Putra Jaya, "Penerapan Bentuk Mediasi Penal Dengan Pendekatan Keadilan Restoratif Dalam Sistem Peradilan Pidana Anak," *Jurnal Komunikasi Hukum (JKH)* 6, no. 1 (2020): 253–65.

<sup>2</sup> Yul Ernis, "Diversi Dan Keadilan Restoratif Dalam Penyelesaian Perkara Tindak Pidana Anak Di Indonesia (Diversion And Restorative Justice In Case Settlement Of Juvenile Justice System In Indonesia)," *Jurnal Ilmiah Kebijakan Hukum* 10, no. 2 (2017): 163–74.

<sup>3</sup> R. I. Sekretariat Negara, *Undang-Undang No. 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak* (Jakarta, 2012).

<sup>4</sup> Jamillah Jamillah, "Penanggulangan Terhadap Anak Berhadapan Dengan Hukum Dalam Tindak Pidana Penganiayaan," *JPPUMA: Jurnal Ilmu Pemerintahan dan Sosial Politik UMA (Journal of Governance and Political Social UMA)* 5, no. 1 (2017): 60–70.

general, restorative justice is a form of solving a criminal case outside of the justice system in general. The principle is that the restorative justice approach is a model of solving a criminal case with more emphasis on the restorative aspect itself. In addition, the case settlement model with a restorative concept is an alternative to handling cases with the general justice system which is considered less effective.

## **2. Research Method**

The research used in this writing is Juridical Sociological research and uses a qualitative research approach that is descriptive and uses interactive analysis techniques.

## **3. Analysis and Discusin**

### **3.1. The Concept of Restorative Justice in Criminal Law**

This concept refers to the settlement of criminal proceedings by involving the people involved in it, such as the perpetrator, the victim's family, the perpetrator's family and other supporting parties. This is intended so that the people involved jointly seek a fair solution by referring to restoration to its original state and not for retaliation. Lesly MN Diet said that restorative justice is a regulatory change in the Juvenile Criminal Justice System (SPPA). The target is children who are in conflict with the law, with the aim of finding a fair solution by emphasizing restoration to its original state and not retaliation.

Legal protection for children in conflict with the law, special treatment can be given to procedural law, different criminal threats from adults, fulfilling children's rights and prioritizing restorative justice. Restorative Justice can be interpreted as a thought that refers to the development of the criminal justice system by prioritizing the need to involve the community and victims who feel excluded from the mechanisms that work in the existing criminal justice system.<sup>5</sup> Restorative Justice approach model, namely with a dialogue between victims and also perpetrators is the initial stage and is an important part of this application. Dialogue between victims and perpetrators can have an impact on victims where victims can express or explain what they feel, express hopes for the fulfillment of rights and wishes from a settlement of a criminal case. Through the dialogue that is carried out, it is also expected that the perpetrator can introspect himself and be aware of his actions and also be able to accept the consequences of a crime committed consciously. The concept of restorative justice is basically very simple.

During the Vienna declaration, the 10/2000 UN Congress (document A/conf.187/4/Rev.3), it was stated that in order to provide protection to victims of crime, mediation and restorative justice mechanisms should be introduced. Seen in the "International Penal Reform Conference" which was held at Royal Holloway College, University of London, from 13 to 17 April 1999 it was stated that one of the

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<sup>5</sup> Randy Pradityo, "Restorative Justice dalam Sistem Peradilan Pidana Anak," *Jurnal Hukum dan Peradilan* 5, no. 3 (2016): 319-30.

key elements of the new agenda for criminal law reform (the key element of a new agenda for penal reform) is the need to enrich the formal justice system with an informal system or mechanism for resolving disputes that are in accordance with human rights standards. The conference also identified 9 development strategies in implementing legal reform, and one of the things mentioned in it was Restorative Justice.<sup>6</sup>

Meanwhile, according to Tony F. Marshall, restorative justice is a process in which interested parties can solve together ways to reach an agreement after a crime has occurred, including its implications at a later date.<sup>7</sup> Restorative justice for which to produce restorative justice, namely a process in which all parties involved in a crime jointly solve problems, how to deal with problems in the future. Restorative justice is also very possible to be pursued to be able to resolve criminal cases. Judicial use of the Restorative Justice method can also be used as a solution so that justice can be carried out in a simple way, with light financing. The concept of restorative justice or Restorative Justice concept is a concept of justice that aims to empower victims, society and also for perpetrators. In order to be able to improve a treatment that is said to have violated the law, by using the awareness and awareness of the perpetrator as a basis for improving his life.

### **3.2. Restorative Justice in Juvenile Criminal Justice**

Restorative Justice is very important to be applied especially to children because the psychological factors of children are also good to pay attention to. There are four (4) criteria for child cases that can be resolved through Restorative Justice, namely:

- 1) The case does not compromise the public interest and is not a traffic violation;
- 2) The child is a first time offender and is not a recdivise;
- 3) The cases experienced were not cases that resulted in the loss of a person's life;
- 4) The case is not a crime of decency that involves a person's honor.

In Restorative Justice, especially in juvenile justice, there has been a legal basis applied, namely:

- 1) Law of the Republic of Indonesia No. 4 of 1979 concerning child welfare;
- 2) Law of the Republic of Indonesia No. 11 of 2012 concerning the juvenile justice system
- 3) PP of the Republic of Indonesia No. 65 of 2015 concerning guidelines for the implementation of diversion and handling of children who are not yet 12 (twelve) years old;

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<sup>6</sup> Hendra Agustinus, Muhammad Yamin Lubis, dan Muhammad Arif Sahlepi, "Penyelesaian Perkara Pidana Melalui Pendekatan Restoratif Justice Terhadap Anak Sebagai Pelaku Tindak Pidana Persetubuhan (Studi Putusan Nomor: 3/Pid. Sus. Anak/2017/PN Slw)," *Jurnal Ilmiah METADATA* 4, no. 3 (2022): 187-202.

<sup>7</sup> Andri Winjaya Laksana, "Keadilan Restoratif Dalam Penyelesaian Perkara Anak Yang Berhadapan Dengan Hukum Dalam Sistem Peradilan Pidana Anak," *Jurnal Pembaharuan Hukum* 4, no. 1 (2017): 57-64.

- 4) PERMA of the Republic of Indonesia No. 4 of 2014 concerning guidelines for the implementation of diversion in the juvenile justice system.

The application of Restorative Justice in the crime of maltreatment can be carried out in the form of mild maltreatment. It is hoped that the legal protection provided through the restorative justice process, which involves children, does not enter the realm of law and can be resolved amicably. On the one hand, there is still the responsibility of the perpetrator to the victim. On the other hand, the perpetrator also does not lose his rights as a child or the next generation. One of them is the right to education. In carrying out settlements of abuse cases committed by children Restorative justice must meet material requirements such as one of which does not cause unrest or rejection from the community, as well as formal requirements, meaning that peace must exist from both parties.<sup>8</sup>

### 3.3. Restorative justice in cases of persecution

The crime of persecution is an act that violates the legal needs of the human body. In the (KUHP) it is stated that simple maltreatment is regulated in Article 351 of the Criminal Code, light maltreatment is regulated in Article 352 of the Criminal Code, premeditated maltreatment is regulated in Article 353 of the Criminal Code, serious maltreatment is regulated in Article 354 of the Criminal Code, premeditated maltreatment is regulated in Article 355 of the Criminal Code, and persecution of qualified persons is regulated in Article 356 of the Criminal Code.

There are 5 principles in restorative justice namely;

1. Restorative Justice contains full contribution and agreement. Both parties must be actively involved in the talks to resolve the case thoroughly. And it also opens up opportunities for the community to contribute if it is felt that the perpetrators disturbed order during the case.
2. Restorative Justice traces a way out to restore and repair the damage or loss.
3. Restorative Justice provides an obligation for the perpetrator to be responsible for his actions. The perpetrator must admit and regret if his action was a mistake that caused harm to the victim.
4. Restorative Justice has the role of reuniting the perpetrators as citizens with their communities.
5. Restorative Justice provides energy to the community to prevent these actions from happening again.<sup>9</sup>

The Police in carrying out the settlement of cases with Restorative Justice in order to further enhance the implementation of Restorative Justice efforts in criminal cases by conducting socialization and understanding of the settlement of criminal cases outside the judiciary so that the public understands and understands settlements outside of

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<sup>8</sup> Yusi Amdani, "Konsep Restorative Justice dalam penyelesaian perkara tindak pidana pencurian oleh anak berbasis hukum islam dan adat Aceh," *Al-'Adalah* 13, no. 1 (2016): 81-76.

<sup>9</sup> Elista Simanjuntak, "Restorative Justice dalam Penyelesaian Kasus Kekerasan Seksual Anak: Suatu Kajian Pengambilan Keputusan Etis," *Integritas: Jurnal Teologi* 4, no. 2 (2022): 116-26.

criminal justice so that later these out-of-judicial settlements take place well without any problems. Persecution is a crime in order to torture or oppress others. Assault that causes pain or injury to the body or limbs of another person is an unlawful act.

Article 90 of the Criminal Code explains in detail the categories of injuries, namely:

1. Falling ill or receiving an injury that gives no hope of recovery at all, or that poses a serious danger of death.
2. Not able to continue to carry out job duties or search work.
3. Losing one of the five senses.
4. Got a serious disability.
5. Suffering from paralysis.
6. Disrupted thinking for four weeks or more.
7. Abortion or death of a woman's womb.

The crime of maltreatment can occur intentionally and sometimes by mistake. Intentional abuse indicates intentional abuse by the perpetrator with hostility.<sup>10</sup>

#### 1. Common abuse

Ordinary maltreatment is contained in Article 351 of the Criminal Code, namely in essence all maltreatment that is not serious maltreatment and not light maltreatment. In ordinary persecution divided into several types, namely:

- 1) Ordinary maltreatment which cannot cause serious injury or death and is punishable by imprisonment for 2 years and 8 months or a fine of four thousand five hundred rupiahs.
- 2) Persecution resulting in serious injury and is punishable by a maximum imprisonment of five years.
- 3) Persecution resulted in death and is punishable by imprisonment and a maximum of 7 years.
- 4) Persecution in the form of intentional damage to health.

#### 2. Mild abuse

Mild maltreatment is regulated in Article 352 of the Criminal Code, minor maltreatment in the form of not premeditated maltreatment, not maltreatment committed against the mother/father/children/wife, employees on duty, inserting substances that are dangerous to life, and does not cause illness or obstacles to carrying out work and livelihood. Light maltreatment carries a maximum sentence of three months in prison or a fine of three hundred rupiahs if it is not included in the formulation of Articles 353 and 356 of the Criminal Code, and does not cause illness or an obstacle to carrying out work.

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<sup>10</sup> Candra Hayatul Iman, "Kebijakan Hukum Pidana Perlindungan Anak dalam Pembaruan Sistem Peradilan Pidana Anak di Indonesia," *Jurnal Hukum dan Peradilan* 2, no. 3 (2018): 358-78.

### 3. Planned persecution

There are three types of premeditated maltreatment as stated in Article 353 of the Criminal Code, namely premeditated maltreatment which does not result in serious injury or death and is punishable by a maximum of 4 years in prison, then premeditated maltreatment which results in serious injury and is sentenced to a maximum of 4 years in prison, and premeditated maltreatment resulting in death punishable by imprisonment for up to 9 years. A person who commits persecution plans to do so with a calm will and a calm mood.

### 4. Severe persecution

Serious maltreatment is regulated in Article 354 of the Criminal Code, namely anyone who intentionally seriously injures another person, is threatened with committing serious maltreatment with a maximum imprisonment of 8 years. If the said act results in death, the offender is punished by a maximum imprisonment of 10 years. The act of serious maltreatment was done intentionally by the person who committed it.

### 5. Planned severe persecution

Aggressive maltreatment is contained in a combination of Article 354 paragraph 1 of the Criminal Code concerning serious maltreatment and Article 353 paragraph 2 of the Criminal Code concerning premeditated maltreatment. In this crime must fulfill the elements of serious persecution and premeditated persecution.

### 6. Persecution of people

This punishment is determined in Articles 351, 353, 354 and 355 and can be added by one third:

- 1) For those who committed the crime to their mother, legal father or wife or child.
- 2) If the crime was committed against an official when or because of carrying out his lawful duties.

If the crime was committed by providing substances which are harmful to life or health to eat or drink.<sup>11</sup>

## **3.4. Children in Conflict with the Law According to Criminal Law**

Law No. 11 of 2012 concerning the juvenile justice system has provided specificity to the Due Process Law for perpetrators of juvenile crimes known as diversion. According to Law no. 11 of 2012 diversion has been given an interpretation in article

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<sup>11</sup> Andik Prasetyo, "Perlindungan hukum bagi anak pelaku tindak pidana," *Mizan: Jurnal Ilmu Hukum* 9, no. 1 (2020): 51–60.

1 number 7, namely the transfer of settlement of child cases from the criminal justice process to processes outside the criminal justice.

The category of children as perpetrators of criminal acts has been regulated separately in criminal law. Children who are 12 (twelve) years old but have not reached 18 (eighteen) years old who have committed a crime. Therefore, children under the age of 12, even though the child has committed a crime, cannot be categorized as a child who is in conflict with the law.

There are 10 principles applied in the juvenile justice system based on article 2 of Law no. 1 of 2012, namely;

1. Protection
2. Justice
3. Non Discrimination
4. Best interests of the child
5. Children's opinion award
6. Survival and development of children
7. Development and guidance of children
8. Proportional
9. Avoidance of retaliation
10. Deprivation of liberty and punishment as a last resort.<sup>12</sup>

In the provisions of the Convention on the Rights of the Child (convention on the right of the child ) which was legalized or ratified by the Indonesian government through Presidential Decree No. 36 of 1990, which was later also included in Law number 4 of 1979 concerning child welfare and Law no. 23 of 2002 regarding child protection and in Law no. 11 of 2012 concerning the juvenile criminal justice system, which among other things, the law sets out general principles regarding child protection, namely non-discrimination, the best interests of the child, survival and growth and respect for children's participation.

Law enforcement officials who are members of the law enforcement agencies (ABH) do not refer to Law no. 11 of 2012 concerning juvenile justice systems or other laws and regulations that are also related to ABH, but must prioritize peace over the formal legal process which was enacted 2 years after the 1 August 2014 SPPA Law (article 108 of Law no. 11 of 2012).<sup>13</sup>

Tony F. Marshall, states "Restorative justice is a process in which all parties involved in a particular crime come together to decide how to deal with the consequences of the crime and its future consequences." (Restorative justice is a process in which all parties with an interest in a particular crime gather to decide together how to resolve

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<sup>12</sup> I. Gede Aditya Putra Mahendra, "Upaya Kepolisian Negara Republik Indonesia Dalam Menanggulangi Tindak Pidana Pencurian Yang Dilakukan Pelaku Di Bawah Umur Dengan Penerapan Asas Restorative Justice," *Jurnal Hukum Media Justitia Nusantara* 12, no. 1 (2022): 99-145.

<sup>13</sup> "Mahkamah Agung Republik Indonesia," diakses 28 Mei 2023, <https://www.mahkamahagung.go.id/id/artikel/2613/keadilan-restoratif-sebagai-tujuan-pelaksanaan-diversi-pada-sistem-peradilan-pidana-anak>.



the consequences of that mistake for the good of the future.) From this definition it can be concluded that when a crime is resolved with restorative justice, agreement between the parties requires consideration. Future.

### **3.5. Justice and Penal Mediation in the Resolution of Children Against the Law in the Juvenile Justice System**

Bagir Manan argues that children in the field of criminal law are treated as "small adults", so that the entire process of the case except in the Penitentiary is carried out similarly to adult cases. Correctional Institution is carried out the same as adult cases.

There are 2 (two) categories of child behavior that make them face the law, namely:

- 1) Status offender is child delinquent behavior that if committed by adults is not considered a crime, such as disobedience, skipping school or running away from home;
- 2) Juvenile delinquency is child delinquent behavior that if committed by adults is considered a crime or violation of the law.

Although children must undergo a criminal justice process, children's rights must still be given. Article 3 of the Convention on the Rights of the Child provides obligations to fulfill and protect the rights of children in conflict with the law as follows:

- 1) In all actions concerning children, taken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration;
- 2) States parties undertake to ensure such protection and care of the child as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians or other persons legally responsible for him or her, and to this end, shall take all appropriate legislative and administrative measures;
- 3) States parties shall ensure that the various institutions, services and facilities responsible for the care and protection of children conform to the standards prescribed by the competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as authorized supervision.

One form of handling of Children against the Law (ABH) is regulated in Article 16 paragraph 3 of Law Number 23 of 2002 concerning Child Protection which states that the arrest, detention or imprisonment of children is only carried out when in accordance with applicable law and can only be done as a last resort. This regulation is in accordance with the Convention of the Right of the Child which has been ratified

by the Indonesian government with Presidential Decree No. 36 of 1990 by stating that the legal process is carried out as a last resort and for the shortest appropriate period.<sup>14</sup>

Some regulations relating to the detention of children in conflict with the law have actually attempted to apply restorative justice, although not comprehensively. However, in reality, many children in conflict with the law who commit minor crimes are imprisoned, such as in the 2006 Raju case, which was the centerpiece of Indonesia's juvenile justice scene. In practice, criminal cases are often settled out of court through the discretion of law enforcement officials or through deliberation or peace mechanisms or forgiveness institutions that exist in the community (family deliberation, village deliberation, customary deliberation and so on). The practice of resolving criminal cases outside the court has no formal legal basis, so it often happens that a case that has been informally resolved amicably (even through the mechanism of customary law) is still processed to court in accordance with applicable law.

In order to restore and provide protection to children in conflict with the law, there needs to be cooperation from all parties. The concept of restorative justice through alternative dispute resolution is that the choice of settlement is left to the perpetrator and victim. In determining sanctions, the perpetrator can offer compensation that is negotiated/agreed upon with the victim. This system formulates justice into the formulation of the parties, namely the victim and the perpetrator, not based on the calculation of the prosecutor and the judge's decision. The weakness that is feared from the application of restorative justice is that it can be a source of abuse of authority (discretion) from law enforcers.<sup>15</sup>

The definition of restorative justice according to Tony F. Marshall is a process where interested parties, solve together how to reach an agreement after a criminal offense occurs, including its implications in the future. The concept of restorative justice through alternative dispute resolution is that the choice of settlement is left to the perpetrators and victims.

In determining the sanction, the perpetrator can offer compensation that is negotiated/agreed upon with the victim. This system formulates justice into the formulation of the parties, namely the victim and the perpetrator, not based on the calculation of the prosecutor and the judge's decision. According to Article 1 point 5 of the Joint Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, the Chief of the National Police of the Republic of Indonesia, the Minister of Law and Human Rights of the Republic of Indonesia, the Minister of Social Affairs of the Republic of Indonesia, and the Minister of State for Women's Empowerment and Child Protection of the Republic of Indonesia that what is meant by restorative justice is a fair settlement involving perpetrators, victims, their families and other parties involved in a criminal act, jointly

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<sup>14</sup> Rio Reza Parindra, "Penerapan Restorative Justice Terhadap Anak Yang Melakukan Tindak Pidana Kekerasan Yang Mengakibatkan Kematian (Studi Kasus Putusan Nomor 3/Pid-Sus Anak/2020/PN. Pts)," *Jurnal Ilmiah METADATA* 4, no. 2 (2022): 367-88.

<sup>15</sup> Emy Rosna Wati, "Penanganan anak yang berkonflik dengan hukum," *Justitia Jurnal Hukum* 1, no. 2 (2017).

seeking a solution to the criminal act and its implications, by emphasizing recovery back to its original state. Restorative justice system at least aims to repair / restore (to restore) criminal acts committed by children with actions that are beneficial to children, victims, and their environment.

The characteristics of the restorative justice model according to Muladi are as follows:Kejahatan dirumuskan sebagai pelanggaran seorang terhadap orang lain dan diakui sebagai konflik;

- 1) Focus on solving problems of future responsibility and liability;
- 2) Normative nature built on dialog and negotiation;
- 3) Restitution as a means of repairing the parties, reconciliation and restoration as the main goal;
- 4) Justice is formulated as a relationship of rights, judged on the basis of results;
- 5) Targeted attention on repairing social harm;
- 6) The community is the facilitator in the restorative process;
- 7) The roles of victims and offenders are recognized, both in the problem and the resolution of victims' rights and needs. Offenders are encouraged to take responsibility;
- 8) The offender's accountability is formulated as a result of understanding the act and to help decide what is best;
- 9) Crime is understood in its full, moral, social and economic context; and
- 10) Stigma can be removed through restorative action.

The characteristics of restorative justice are making the offender responsible for repairing the harm caused by his/her wrongdoing; giving the offender the opportunity to prove his/her capacity and quantity in addition to addressing the guilt constructively; involving the victims, parents, extended family, school and close friends; creating a forum for cooperation in resolving the problem; establishing a direct and tangible link between the wrongdoing and the social reaction. In the best interest of the child, it is appropriate for law enforcement officials to apply restorative justice approaches.<sup>16</sup>

Indicators in restorative juvenile justice can be seen from the roles of perpetrators, victims, communities, and juvenile justice professionals. Each role is as follows:

- 1) Offender, the offender is active to restore the harm to the victim and society. He/she must face the victim/victim's representative;
- 2) Victims, actively involved in all stages of the process and play an active role in mediation and participate in determining sanctions for the perpetrator;
- 3) The community, involved as a mediator to develop community services and provide employment opportunities for the perpetrator as a form of reparative

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<sup>16</sup> Winda Nugraha dan Susilo Handoyo, "Penerapan Restorative Justice dalam Penanganan dan Penyelesaian Tindak Pidana Narkotika yang Dilakukan oleh Anak di Kota Balikpapan," *Journal de Facto* 6, no. 1 (2019).

obligations, assist victims and support the fulfillment of the perpetrator's obligations;

- 4) Professionals, facilitate mediation, provide assurance of restorative implementation, develop creative/restorative community service options, involve community members in the process, and educate the community.

In its application, not all juvenile cases can be applied restorative justice and the criteria are as follows: not a case of juvenile delinquency that sacrifices the interests of many people, juvenile delinquency that does not result in loss of human life, serious injury or lifelong disability and the delinquency is not a crime against decency that seriously concerns honor and is not a traffic violation. Restorative justice is an attempt to seek peaceful resolution of conflicts outside of court. Especially for children in conflict with the law, restorative justice is important to apply because the psychological factors of children must be considered.<sup>17</sup>

#### **4. Conclusion**

In resolving cases of abuse committed by children Restorative justice must meet material requirements and also one of which does not cause unrest or there is a rejection from the community, as well as formal requirements, meaning that peace must exist from both parties. Settlement of cases of abuse committed by children can be resolved in restorative justice if the abuse is not categorized as being able to take someone's life.

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<sup>17</sup> Fahrurrozi Fahrurrozi, "Penerapan Sanksi terhadap Anak sebagai Pelaku Tindak Pidana dalam Perspektif Restorative Justice di Wilayah Hukum Polres Mataram," *Jurnal IUS Kajian Hukum dan Keadilan* 3, no. 1 (2015).

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