

Restorative Justice as Access to Justice for Child Victims of Criminal Acts in The Criminal Justice System

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Abstract

Restorative justice in resolving criminal cases requires justice with balance and peace. Balance obtains justice for perpetrators, victims, and affected communities. Peace aims to restore the situation or relationship that has been fractured between the perpetrator and the child victim and his family, including the recovery of the community affected by the criminal offense. Restorative justice is fundamental for child victims to obtain justice as part of recovery. The type of research used is normative juridical with descriptive-analytical research specifications and qualitative data analysis. Child victims of criminal acts require special protection and treatment to recover both physically and psychologically. Child victims obtain access to justice in a restorative justice approach with the fulfillment of elements including admission of guilt, forgiveness, and restoration of circumstances. For perpetrators of criminal acts, admission of guilt, forgiveness, and compensation are access to peace with the victim.

I. Introduction

The state is obliged to provide protection and fulfillment of the rights of citizens, including the rights of children who are victims of criminal acts. Children's rights are guaranteed explicitly in the 1945 Constitution of the Republic of Indonesia, in Article 28B paragraph (2), namely the right of children to survive, grow and develop and the right to protection from violence and discrimination. One of the efforts to protect and fulfill the rights of citizens, in this case, child victims of crime, is carried out through a restorative justice approach. Restorative justice has become part of the criminal justice system as one of the efforts to resolve criminal cases. However, resolving cases with restorative justice has become a habit passed down from generation to generation by the community. The values of justice, honesty, justice, and family values are the basis for solving problems. Restorative justice in Indonesia has a different basis from the development of the Western world because this is a thought to overcome child delinquency based on local wisdom, values, and morals that have been guidelines for society in behaving that prioritizes deliberation to reach an agreement.¹ The habit of conducting deliberations to reconcile the parties is an inseparable part of dealing with daily problems in the community. Settlement of cases through deliberation is not limited to criminal or civil cases; the interests of the perpetrator, victim, community (affected by the crime), or related agencies are part of restorative justice.

According to Nyoman Serikat Putrajaya, "Restorative justice is a model of approach to obtain justice based on the philosophy and values of responsibility, openness, trust, hope, and healing, which focuses on reparation/repair of losses due to criminal acts and seeks to encourage perpetrators to be responsible for their actions through healing, reintegration, reparation and preventing further losses.² Furthermore,

¹Nur Rochaeti, "Implementasi Keadilan Restoratif dan Pluralisme Hukum dalam Sistem Peradilan Pidana Anak di Indonesia", *Masalah-Masalah Hukum*, Jilid 44 No.22, 2 April 2015, halaman 153.

²Nyoman Serikat Putra Jaya, 2018, *Hukum dan Hukum Pidana di Bidang Ekonomi*, Edisi Revisi, Semarang: Badan Penerbit Universitas Diponegoro, halaman 207-208.

³Muladi, 2013, Pendekatan "*Restoratif Justice*" dalam Sistem Peradilan Pidana dan Implementasinya dalam Sistem Peradilan Anak, Bahan Ceramah di Pasca Undip dan USM, halaman 4.

⁴John Braithwaite and Heather Strang, 2001, "Introduction: Restorative Justice and Civil Society," *Restorative Justice and Civil Society*, Edited by Heather Strang and John Braithwaite, Cambridge University Press, Halaman 10.

⁵Muhammad Fatahillah Akbar, "Keadilan Restoratif dalam Sistem Peradilan Pidana Sebagai Perwujudan Nilai-nilai Pancasila, *Jurnal Hukum Justitia Et Pax*, Volume 37, Nomor 1 Juni 2021, halaman 98.

⁶Kasmanto Rinaldi dan Chika Tri Muharsih, "Penerapan *Restoratif Justice* Pada Proses Peradmaian Pelaku dan Korban Atas Kerugian dalam Proses Persalinan", *Jurnal Das Sollen*, Volume 6, Nomor 2 , Desember 2021, halaman 50.

⁷Abdul Wahid, "Keadilan Restoratif: Upaya Menemukan Keadilan Substantif?", *Jurnal Ius Constituendum* | Volume 7 Nomor 2 2022 , halaman 307.

⁸Dewi Setyowati, "Memahami Konsep *Restorative Justice* sebagai Upaya Sistem Peradilan Pidana Menggapai Keadilan", *Pandecta*. Volume 15. Number 1. June 2020, halaman 121.

Muladi stated, "Restorative justice is a criminal justice system that seeks to listen, reassure parties harmed by a conflict and to restore broken relationships in the right and fair direction between opposing parties, which focuses on problem-solving, to mutually repair social losses and the possibility of expressing regret and forgiveness."³ *Restorative justice is a process that brings together all stakeholders affected by some harm that has been done (e.g., offenders, their families, victims and their families, affected communities, and state agencies such as the police). On the second view, the values of restorative justice differ from traditional punitive state justice. Restorative justice is about healing (restoration) rather than hurting.*⁴ Restorative justice in the criminal justice system brings the parties to obtain a fair settlement regarding compensation and restitution and an admission of guilt and forgiveness. Restorative justice is intended to help or facilitate the recovery of victims of criminal acts as a form of perpetrator responsibility. So far, the regulation regarding the rights of victims of criminal acts in the criminal justice system has been less than optimal. This can be seen in Law Number 8 of 1981 concerning Criminal Procedure Law, which emphasizes regulating the protection and fulfillment of the perpetrator's rights over the victim. Restorative justice has many benefits, such as giving a more significant role to victims in the criminal justice system and a more effective and efficient judicial process. The settlement of criminal cases involving all parties will better achieve the goals of justice itself. ⁵In Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, the settlement of criminal acts committed by children must use a restorative justice approach. In addition, law enforcement officers in investigation, prosecution, and court examinations must strive for diversion. Diversion is the transfer of the settlement of children's cases from the criminal justice process to a process outside the criminal justice system, which is attempted if the child commits a crime that is threatened with imprisonment of less than 7 (seven) years and is not a repeat of the crime. In the Explanation of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, restorative justice and diversion in the settlement of cases in the juvenile criminal justice system to avoid and distance children from the judicial process to prevent stigmatization of children who are in conflict with the law and it is hoped that children can return to the social environment naturally. In addition, the settlement by imposing sanctions in the form of imprisonment can be said to only provide retribution and deterrence for the perpetrator. At the same time, victims

⁹M. Chaerul Risal dengan judul "Analisis Kritis Terhadap Implementasi Restoratif Justice dalam Sistem Peradilan Pidana : Tantangan dan Peluang", Jurnal Al Tasyri'iyah Vol. 3 No. 1 Tahun 2023, halaman 68.

¹⁰Barda Nawawi Arief, 2014, Mediasi Penal Penyelesaian Kasus Pidana di Luar Pengadilan, Semarang: Pustaka Magister, halaman 2.

¹¹Farouk Muhammad, "Reformasi Kepolisian Negara Republik Indonesia dalam Kontek Pembangunan Sistem Peradilan Pidana", *Bunga Rampai Potret Penegakan Hukum di Indonesia*, (Komisi Yudisial Republik Indonesia, 2009), halaman 306.

¹²Deni Setya Bagus Yuherawan, Ribut Baidi, "RESTORATIVE JUSTICE: IMPLEMENTASI KEBIJAKAN PEMIDANAAN DALAM SISTEM HUKUM PIDANA INDONESIA", *Indonesia Criminal Law Review*: Vol. 2: No. 1, Article 3, halaman 3.

¹³Greg Mantle, Darrel Fox and Mandeep K. Dhami, "Restorative Justice and Three Individual Theories of Crime,"

with physical or psychological losses do not necessarily receive recovery or restitution from the perpetrator. The crime of deprivation of liberty can also open up opportunities for repeat crimes. In addition to imprisonment, which has a social impact on the family of the prisoner, the current system has not relieved or cured the victim.⁶

Several studies that examine restorative justice in resolving criminal cases and justice for victims include, first by Abdul Wahid, entitled "Restorative Justice: An Effort to Find Substantive Justice?" stating that the essence of *restorative justice* is a balanced relationship between the interests and harmony of society, perpetrators, and victims simultaneously.⁷ In addition, after community harmony is fulfilled, *restorative justice* seeks to implement a proportional relational relationship between the victim and the perpetrator. Second, Dewi Setyowati's research entitled " Understanding the Concept of *Restorative Justice* as an Effort of the Criminal Justice System to Achieve Justice." The results of Dewi Setyowati's research are that restorative justice refers to a way of responding to crime or other types of wrongdoing, injustice, or conflict, which focuses primarily on repairing the damage caused by wrongdoing and restoring, as far as possible, the welfare of all parties involved.⁸ Third, research by M. Chaerul Risal entitled "Critical Analysis of the Implementation of *Restorative Justice* in the Criminal Justice System: Challenges and Opportunities." The study's results indicate that the implementation and approach of *restorative justice* in resolving criminal disputes face several complex challenges and obstacles, covering various aspects from a legal, cultural, and practical perspective.⁹

Child victims of crime need recovery for their survival, growth, and future. A restorative justice approach can help child victims. Restorative justice is focused on fulfilling the needs of victims. Failure of the restorative justice approach can result in not obtaining compensation or restoring conditions as before the crime occurred. One access to justice for child victims of crime can be obtained through a restorative justice approach in the criminal justice system. The problem in this study focuses on how restorative justice for child victims of crime, primarily to obtain access to justice and fulfillment of rights.

¹⁴Henny Saida Flora, "Keadilan Restoratif Sebagai Alternatif dalam Penyelesaian Tindak Pidana dan Pengaruhnya dalam Sistem Peradilan Pidana di Indonesia", *UBELAJ*, Volume 3 Nomor 2, Oktober 2018, halaman 145.

¹⁵Muladi, *op. cit.*, halaman 3.

¹⁶Sukardi, "Penanganan Konflik Sosial dengan Pendekatan Keadilan Restoratif", *Jurnal Hukum dan Pembangunan*, Tahun Ke-46 No.1, Maret 2016, halaman 74.

¹⁷Henny Saida Flora, *op.cit*, halaman 147.

¹⁸Ani Triwati, "Akses Keadilan Sebagai Perlindungan Hukum Bagi Perempuan Berhadapan dengan Hukum dalam Sistem Peradilan Pidana", *HUMANI (Hukum dan Masyarakat Madani)*, Volume 9 No. 1 Mei 2019, halaman 83.

¹⁹Muladi, *op.cit.*, halaman 10.

²⁰Muladi, *Op.cit.*, halaman 27.

2. Research Method

The type of research used is normative juridical with analytical descriptive research specifications. The data used is secondary data. The data collection method through literature studies is carried out by selecting and grouping primary and secondary legal materials regarding victims of crime and restorative justice. Data analysis was conducted qualitatively and prescriptively to provide arguments for the results of the research that had been conducted.

3. Results and Discussion

1. Restorative Justice in the Criminal Justice System

The regulation on restorative justice, which is still partial, can cause disharmony, which can also have an impact on its implementation. Restorative justice has the objective that efforts to resolve criminal acts are focused on recovery, peace, and justice for the parties, especially victims. In this study, the focus is on children. Recovery, among others, in the form of compensation given, is not intended as revenge for the perpetrator but as a form of responsibility of the perpetrator towards the child victim. In Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System, Article 5 stipulates that the juvenile criminal justice system must prioritize the restorative justice approach, which includes investigation, prosecution, trial of children, coaching, guidance, supervision, and assistance during the process of implementing the criminal or action and after serving the criminal or action.

At the investigation stage, cases with restorative justice are resolved with material and formal requirements. Article 12 of the Regulation of the Chief of the Republic of Indonesia National Police Number 6 of 2019 concerning Criminal Investigation, material requirements include criminal acts that do not cause public unrest, or there is no public rejection, do not have an impact on social conflict, the parties involved state that they do not object, and waive their right to sue before the law, there is a limiting principle (for the perpetrator: the level of the perpetrator's guilt is relatively not profound. Namely, the guilt is in the form of intent; the perpetrator is not a recidivist. The crime is in the process of investigation and inquiry before the SPDP is sent to the Public Prosecutor). Formal requirements include a letter of request for peace from both parties (the reporter and the reported party), a statement of peace (deed of marriage), and a settlement of the dispute between the parties in the case (the reporter and the reporter's family, the reported party and the reported party's family and representatives of community leaders) known by the investigator's superior, minutes of additional examination of the parties in the case after the case has been settled through restorative justice, a recommendation for a particular case title that agrees to the restorative justice settlement, and the perpetrator does not object and is carried out voluntarily for responsibility and compensation.

In Article 5 of the Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice, the implementation of restorative justice is determined by material requirements, which include not causing unrest and rejection from the community, does not have an impact

on social conflict, does not have the potential to divide the nation, is not radical or separatist, not a repeat offender based on the court's envoy, and not a criminal act of terrorism, a crime against state security, a crime of corruption and a crime against people's lives. Furthermore, Article 6 determines the formal requirements, which include peace from both parties (the existence of a peace agreement letter), except for drug crimes, and fulfillment of the rights of victims and the responsibilities of the perpetrators, except for drug crimes. Fulfillment of the victim's rights and the perpetrator's responsibilities can be in the form of returning goods, compensation for losses, replacing costs incurred due to criminal acts, and replacing damages caused by criminal acts. The existence of peace with evidence of a peace agreement letter shows that there must be an admission of guilt and forgiveness (i.e., an apology from the perpetrator and forgiveness from the victim's child and family) as a condition in implementing restorative justice. At the same time, compensation is part of the recovery of suffering due to the criminal act and a form of responsibility from the perpetrator.

At the prosecution stage, Article 3 of the Republic of Indonesia Prosecutor's Office Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice stipulates that the Public Prosecutor has the authority to close a case in the interests of the law, including in cases where there has been a settlement of the case outside the court (*adorning buiten process*). Settlement of cases outside the court at the prosecution stage can be carried out with the following provisions: certain criminal acts, the maximum fine is paid voluntarily by the requirements of laws and regulations, or the original state has been restored using a restorative justice approach. Settlement using a restorative justice approach can terminate the prosecution by the Public Prosecutor, which is submitted in stages to the Head of the High Prosecutor's Office. Furthermore, Article 4 paragraph (1) stipulates that termination of prosecution based on restorative justice is carried out by taking into account the interests of the victim and other protected legal interests, avoiding negative stigma, avoiding retaliation, community response and harmony, and decency, morality, and public order. Termination of prosecution is carried out by, among other things, paying attention to the interests of the victim; this can be interpreted that the perpetrator who does not pay attention to or fulfill the rights of the child victim to recovery should be the prosecution of the criminal case cannot be terminated even though the requirements for the criminal act that can be resolved with restorative justice are met.

In Article 4 paragraph (2), termination of prosecution based on restorative justice is carried out by considering the subject, object, category, and threat of the criminal act; the background to the occurrence of the criminal act; the level of blameworthiness; losses or consequences caused by the criminal act; *cost and benefit* of handling the case; restoration to the original state; and the existence of peace between the victim and the suspect. If we look closely at the provisions of Article 4, termination of prosecution with restorative justice is carried out with strict conditions and based on mature considerations for access to justice for the child victim because restorative justice is not

only about compensation. Furthermore, Article 5 stipulates the requirements for criminal acts that are closed by law and have their prosecution stopped, namely the first time committing a crime, the crime is punishable by a fine or is punishable by imprisonment of no more than five years, the value of the evidence or the value of the loss arising from the crime is no more than Rp2,500,000.00 (two million five hundred thousand rupiahs). Criminal acts related to property can be stopped from being prosecuted based on restorative justice by considering the requirements that have been determined.

In Article 30C letter d of Law of the Republic of Indonesia Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, the Attorney General's Office conducts penal mediation, carries out execution seizures for payment of criminal fines and substitute sentences and restitution. Penal mediation is one form of alternative dispute resolution outside the court (commonly known as ADR or "*Alternative Dispute Resolution*"; some also call it "*Appropriate Dispute Resolution*").¹⁰ Settlement through the ADR approach or other informal approaches sometimes means setting aside the law enforcement process (formal). Sometimes, a criminal act may still be processed legally, while disputes between parties are resolved amicably (informally).¹¹

Court of the Republic of Indonesia Number 1 of 2024 concerning Guidelines for Trying Criminal Cases Based on Restorative Justice. Article 3 paragraph (1) states that the purpose of trying criminal cases based on restorative justice is to restore victims of crime; restore the relationship between the accused, the victim, and the community; encourage accountability for the accused; and prevent everyone, especially children, from being deprived of liberty. Restorative justice is aimed at the interests and justice of the parties and the affected community, including the state, to prevent crime and *overcrowding of* correctional institutions. Applying the principle of restorative justice does not aim to eliminate criminal responsibility (Article 3 paragraph (2)). Furthermore, Article 6 stipulates that judges try criminal cases with restorative justice if one of the following crimes: the crime committed is a minor crime or the victim's loss is worth no more than Rp. 2,500,000.00 (two million five hundred thousand rupiah) or no more than the local, provincial minimum wage, the crime is a complaint offense, a crime with a maximum sentence of 5 (five) years in prison in one of the charges, including criminal acts of *jinayat* according to *qanun*, a crime with a child perpetrator whose diversion is unsuccessful, or a traffic crime in the form of a crime. Furthermore, Article 6 paragraph (2) stipulates that judges are not authorized to try with restorative justice if the victim or defendant refuses to make peace, there is a power relationship, or the defendant repeats a similar crime within 3 (three) years since the defendant has completed serving a court decision that has permanent legal force.

There is no specific regulation regarding restorative justice, so for the sake of legal certainty and the need for criminal case resolution based on restorative justice, the regulation is made partially with conditions in its implementation at each examination stage by the related institutions. However, the role of the police, prosecutors, and courts in reducing imprisonment for perpetrators of criminal acts through restorative justice is

a positive breakthrough in the world of criminal law enforcement.¹²

The settlement with restorative justice is no longer an alternative in the criminal justice system but has become necessary for the parties, especially victims, and is part of the state's efforts to overcome *prison overcrowding*. The focus on perpetrators of criminal acts and punishment has shifted to coaching and improving the perpetrators and, more importantly, recovery in this case, child victims. The criminal justice system is needed to restore order and protection to society, including efforts to repair or restore child victims of criminal acts so that they can continue their lives properly as children of their age. Settlement of criminal acts with restorative justice at every stage of the examination is intended so that child victims obtain recovery and their rights from suffering due to criminal acts.

Access to Justice for Child Victims of Crime in a Restorative Justice Approach.

Settlement of cases using a restorative justice approach is carried out through deliberation to reach a fair and peaceful agreement for the perpetrator and the child victim or/and their family. In the deliberation, the victim's losses and the perpetrator's ability to provide compensation are identified, and forgiveness is the main element in restoring relationships damaged by criminal acts. Forgiveness, namely an apology from the perpetrator and forgiveness from the child victim and their family, is the opening path to peace for the parties. An apology begins with an admission of guilt from the perpetrator, who realizes that his actions are against the law and are detrimental to the child victim.

The discussion is conducted so that the perpetrators know the negative impacts of the crime and find a fair solution for all parties, including the affected community. " *Restorative justice program brings together the offender, victim, their receptive families, friends, and community representatives, and attempts to engage them in the process of reconciliation and reparation.*" ¹³Restorative justice aims to empower victims, perpetrators, families, and communities to correct an unlawful act by using awareness and realization to improve community life.¹⁴

The occurrence of a crime impacts public order, and the balance of society is disturbed. The resolution of criminal acts with a restorative justice approach restores balance in community life or protects the community if it is associated with social policy objectives. *Restorative justice* simultaneously emphasizes a balanced relationship between the interests and harmony of society, perpetrators, and victims. Restorative justice focuses on crime as a loss or damage, and justice is an effort to repair the damage with a vision to elevate the role of victims of crime, perpetrators of crime, and society as three critical determinant dimensions of the criminal justice system for the welfare and security of society. ¹⁵The concept of the *restorative justice approach* focuses more on restoring the losses and suffering of victims so that justice and balance are created for

perpetrators of crimes and their victims.¹⁶ Understanding the justice and balance of the parties in restorative justice needs to be emphasized, especially for law enforcement officers as the leading portal for implementing restorative justice in the criminal justice system. Justice is not only interpreted as fulfilling repairs or compensation due to criminal acts for child victims by the perpetrator. The child victim and their family want an admission of guilt and an apology from the perpetrator for causing the child victim to suffer because of their actions so that the perpetrator must be responsible. This admission of guilt and apology can be said to be part of the recovery of psychological suffering, especially for the child victim. Without an admission of guilt and an apology, access to peace will be difficult, and efforts to resolve the matter using a restorative justice approach will fail. An admission of guilt and an apology made by the perpetrator and accepted by the child victim and their family will open up opportunities for peace and restoration of damaged relationships. Restorative justice is essentially about healing (recovery) for the perpetrator and the child victim, and not revenge for the perpetrator. Restorative justice does not only focus on compensation but also on a resolution that provides a sense of justice and reconciles the parties. Peace between the victim and the perpetrator or the disputing parties aims to neutralize the situation that caused the dispute or conflict so that the victim and the perpetrator return to being as they were before the dispute occurred, called peace.¹⁷ This peace is a way to restore or improve the relationship between the child victim and the perpetrator, including restoring the victim's physical and psychological condition. Compensation can be adjusted to the perpetrator's ability, although still paying attention to the needs of the child victim, who has the right to live and grow like a child of their age. For the perpetrator, the provision of compensation should be understood as a form of responsibility for the wrongful act that has been committed. The awareness and sincerity of each party are critical in providing compensation. The inability of the perpetrator to provide compensation can provide two possibilities, namely first, acceptance from the child victim and their family because they are aware of the perpetrator's inability so that restorative justice can still be carried out. Second, the child victim and their family reject the settlement with restorative justice because the perpetrator is unable to provide compensation. In this case, it is necessary to understand restorative justice for the parties, especially law enforcement officers.

Restorative justice is one way to obtain justice for child victims. If the child victim and his family feel justice cannot be obtained in a resolution using restorative justice, then the case continues at this stage. The next thing that can be done is restorative justice according to the requirements of the law, namely the prosecution stage until the examination in court and the passing of the judge's decision. According to Mochtar Kusumaatmadja, a favorable legal system means that it must be based on justice; injustice will disrupt the order, which is the order of the law. Disturbed order means that order and certainty are no longer guaranteed. Justice is the basis for the formation of law, so

the law should provide a value of justice for society.¹⁸In resolving with restorative justice or until the trial in court and the passing of the judge's decision, justice is the main thing for both parties, both perpetrators and victims.

Each institution has partially regulated restorative justice at the court's investigation, prosecution, and trial stages. This partial regulation can cause problems for law enforcement officers if there is no harmony in its substance. In practice, a settlement with a refreshing approach can be carried out for criminal acts that do not comply with the requirements, for example, the threat of imprisonment for more than five years. Still, it turns out that the parties (the perpetrator and the victim) agree to a settlement with restorative justice. If law enforcement officers understand the essence of restorative justice, then the criminal case should be stopped. In this case, the discretion of law enforcement officers needs to be used. The nature of restorative justice is justice and restoration. Suppose the settlement with a restorative justice approach is successful. In that case, it can be said that the child victim and their family have obtained access to justice and justice to recover from the criminal act, both physical and psychological, of the perpetrator. For the perpetrator, justice is achieved if the case is stopped by taking responsibility for the crime committed. Restorative justice is a "victim-centered" reaction to crime that allows victims, perpetrators, families, and community representatives to pay attention to the losses caused by the crime.¹⁹The affected community also has a vital role in providing access to justice for child victims of crime and their families. The community tries to help victims recover or receive compensation from the perpetrator. Deliberation efforts by bringing together the perpetrator and the child victim and their family, identifying losses due to the crime, and reconciliation through forgiveness are aimed at accommodating the interests of the victim. Understanding restorative justice is not only based on compensation but also on the need for balance and justice. The restorative justice approach can be carried out even without compensation if there is awareness from the child victim and their family regarding the economic situation of the perpetrator. This is where the state's role is needed in providing compensation. The state should "help" the recovery of child victims who do not receive compensation from the perpetrator. There needs to be a policy from the state so that victims or child victims of criminal acts receive compensation from the state as access to justice, where currently special compensation is given to victims of serious human rights violations and victims of terrorism (Article 7 paragraph (1) of Law Number 35 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims). The rights of child victims of criminal acts have been explicitly stated in laws and regulations, including restitution, namely compensation given to the victim / or his family by the perpetrator or a third party. Settlement with a restorative justice approach requires balanced justice and peace—balance in obtaining justice for perpetrators, victims, and affected communities. Reconciliation between the parties by admitting guilt and forgiveness aims to restore the situation or relationship that has been broken between the perpetrator and the perpetrator's family and the victim and the victim's family.

Restorative justice is one way to obtain justice for child victims so that they can grow and develop like children of their age and live their lives to prepare for the future to achieve their dreams.

The settlement of criminal cases with restorative justice is not without weaknesses. These weaknesses are the focus of the reform of Criminal Law and improvements in implementing restorative justice in the future. Criticism of the limitations of restorative justice is that restorative justice is a disguise for rehabilitation, condoning violence, especially against women and children, contradicts justice that is open to the public, is too soft on crime, and ignores the spirit of revenge in society. ²⁰The restorative justice approach can be a means for perpetrators so that their cases do not continue to court decisions. The perpetrator's ability to provide compensation as if the suffering of the victim's child and family can be assessed financially, even though there is recovery from medical, psychosocial, and psychological aspects provided by the state. A peaceful settlement can be interpreted as forgiveness for the crime because the case is stopped. Settlement with a restorative justice approach does not necessarily guarantee that the perpetrator is aware of his mistakes, so it is feared that there may be a repeat of the crime. In this case, the state must protect every citizen, including in implementing restorative justice. Strict supervision is needed in the implementation of restorative justice, and there is discretion in some instances so that child victims get access to justice. This access to justice must be given to child victims for their survival and future.

4. Conclusion

The essence of restorative justice is justice and restoration. Child victims and their families gain access to justice in the restorative justice approach by fulfilling elements that include an admission of guilt, forgiveness (apology from the perpetrator and forgiveness from the child victim and their family), and restoration of the situation. Restorative justice requires justice with balance and peace. Balance obtains justice for the perpetrator, victim, and community affected by the crime as a form of community protection. Peace of the parties aims to restore the situation or relationship that has been broken between the perpetrator and the perpetrator's family with the victim and the victim's family, including restoration of the situation for the community due to the crime. Regulations regarding restorative justice that are still partial can cause disharmony that also impacts its implementation, so the state should make regulations that serve as an umbrella for the implementation of settlement with restorative justice.

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