

## **THE EFFECTIVENESS OF IMPLEMENTING RESTORATIVE JUSTICE TOWARDS CHILDREN AS PERPETRATORS OF BULLYING CRIMINAL ACTS AT PONTIANAK CITY POLICE OFFICE**

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### **ABSTRACT**

*Bullying cases involving children, both as victims and perpetrators, occur relatively every year in Pontianak. This phenomenon raises concerns regarding the long-term impact on children's psychological and social development. Therefore, this study aims to analyze the effectiveness of the implementation of Restorative Justice against children as perpetrators of bullying crimes at the Pontianak City Resort Police and to identify the obstacles are faced by the Pontianak City Resort Police in the implementation of Restorative Justice against children as perpetrators of bullying crimes. The research method used is sociological juridical with an analytical descriptive approach. The data was obtained through in-depth interviews with police officers, the Pontianak City Child Protection Commission (KPAD), and related parties, and analyzed qualitatively and quantitatively. The research results show that the implementation of Restorative Justice at the Pontianak City Resort Police has been effective, marked by deliberations between the perpetrators, victims, and families to find the best solutions without formal judicial processes. The obstacles in the implementation of Restorative Justice were found in the difficulty of reaching agreements regarding compensation between the victim and the perpetrator. This research has a positive impact in the form of increasing public awareness and law enforcement officials regarding the importance of victim recovery and social reintegration of child perpetrators. Therefore, it is recommended to increase cross-sector cooperation to strengthen the implementation of Restorative Justice in child protection efforts in Pontianak City.*

**Keywords: Children, Bullying, Restorative justice.**

### **INTRODUCTION**

Children are the next generation of the nation's ideals. Their role is strategic in ensuring and determining the future existence of the nation and state.<sup>1</sup> Therefore, all forms of violence against children need to be prevented and addressed. This is stated in Article 28B paragraph (2) of the 1945 Constitution, which states: "Every child has the right to survive, grow and develop and has the right to protection from violence and discrimination."

Guided by the Constitution of the Republic of Indonesia, Law No. 35 of 2014 was issued as an amendment to Law No. 23 of 2002 concerning Child Protection. It states that children are a trust given by God Almighty and must always be protected because they contain the dignity, honor, and rights of human beings that must be upheld. According to this law, children also have a role in the social and economic development of the country.

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<sup>1</sup> Abu Huraerah, *Violence Against Children*, Nuansa Cendekia (Bandung, 2012).

However, despite the vital role children play in the nation's future, many cases of violence involving children, whether as victims or perpetrators of a crime, remain common in everyday life, particularly in bullying. According to the Ministry of Women's Empowerment and Child Protection (2021), bullying is an act or behavior that ostracizes one or more individuals by assuming they have physical or psychological disabilities. Bullying can involve insulting, enslaving, and deceiving the victim, such as by ordering the victim to do something. This can negatively impact both the physical and psychological well-being of the victim. Bullying can be done both in person and online. The impact of bullying can threaten all parties involved, including the victim, the perpetrator, and children who witness the bullying, as well as schools with bullying issues. Bullying can negatively impact a child's physical and mental health. In severe cases, bullying can trigger fatal actions, such as suicide.<sup>2</sup>

In Indonesia, there are no specific regulations governing bullying, because bullying itself has a broad nature. However, the elements of bullying are included in the form of violence against children, where violence against children is contained in Article 76C of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection which states: "Everyone is prohibited from placing, allowing, committing, ordering, or participating in committing violence against children, shall be subject to a maximum prison sentence of 3 (three) years and 6 (six) months and/or a maximum fine of Rp. 72,000,000,-"

If examined from the main point of the case, the elements of bullying can be prosecuted based on the articles listed in the Criminal Code (KUHP), namely Articles 310 and 315 which regulate insults, Article 351 on abuse, and Article 368 on threats and extortion. The basic principles outlined in Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection, specifically Article 54, Article 76A, Article 76C, and Article 80 can be used to prosecute perpetrators of bullying who are still in the child category. The crime of bullying is not only focused on open or verbal behavior, but also focuses on bullying on social media (cyber bullying), which can be subject to Article 27 paragraph 3 and Article 27 paragraph 4 concerning ITE.<sup>3</sup>

The fact that cases of violence against children, including bullying, are an issue that requires special attention and must be resolved immediately. According to data from the Indonesian Child Protection Commission (KPAI) over a nine-year period (2011-2019), there were 37,381 complaints of violence against children. Of these, 2,473 cases involved bullying in educational settings and on social media, with a trend that continues to increase. According to this data, 574 boys were victims of bullying, 425 girls were victims of bullying at school, and 440 boys and 326 girls were perpetrators of bullying at school.<sup>4</sup> More specifically, in 2019, there were 153 complaints of physical and psychological violence against students in educational institutions. These 153 cases involved children who were victims of policies, physical violence, and bullying.<sup>5</sup>

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<sup>2</sup> "Ministry of Women's Empowerment and Child Protection," [kemenpppa.go.id](http://kemenpppa.go.id), 2021.

<sup>3</sup> Bima Cipta Aji, "Bullying in the Perspective of Positive Criminal Law and Islamic Criminal Law," Undergraduate Thesis, Faculty of Law, 2020.

<sup>4</sup> KPAI.go.id, "A Number of Bullying Cases Have Colored the Record of Children's Problems at the Beginning of 2020," 2020, <https://www.kpai.go.id/publikasi/sejumlah-kasus-bullying-sudah-warnai-catatan-masalah-anak-di-awal-2020-begini-kata-komisioner-kpai?>

<sup>5</sup> Antara, "KPAI Receives 153 Complaints of Physical Violence Against Students Throughout," [Antaranews.com](http://antaranews.com), 2019, <https://www.antaranews.com/berita/1230211/kpai-terima-153-aduan-kekerasan-fisik-terhadap-siswa-sepanjang-2019?>

In the Pontianak City area itself, there are still many cases of violence involving children, where in 2020 there were 384 cases recorded, in 2021 there were 294 cases recorded, in 2022 there were 171 cases recorded,<sup>6</sup> and throughout January-September 2023 there were 95 cases of violence against children recorded by the Pontianak City Regional Child Protection Commission (KPAD).<sup>7</sup> Among them is a case of bullying against a 13-year-old child in the 6th grade of elementary school carried out by a 13-year-old girl who has dropped out of school. The 42-second video of the bullying action went viral on social media Twitter. It is known that this bullying incident occurred approximately a month before the video went viral, namely on May 13 and 18, 2023, located in Gang Teratai, West Pontianak. The perpetrator was known to hit, kick, slap and even pull the victim's hair without resistance from the victim. The motive for this bullying was because of hurt feelings (jealousy) because the two victims contacted the perpetrator's girlfriend. Another case that also occurred in Pontianak was bullying carried out by a group of four children who attacked one victim who was also a child. This case was reported to the police by members of the public who witnessed the incident.

In handling cases of bullying involving children, whether as victims or perpetrators, the primary focus is not only protecting the rights and interests of the victims, but also, because the perpetrators are also children, their rights and interests must also be considered. Therefore, because children in conflict with the law have special rights, law enforcement must differentiate the application of the legal system for children in conflict with the law from criminal offenses involving adults.<sup>8</sup>

As perpetrators of crimes, children are referred to as *dilinquen children*, in criminal law referred to as *juvenile delinquency*. According to Romli Atmasasmita, juvenile delinquency is any act or behavior of a child under 18 years of age and unmarried that constitutes a violation of applicable legal norms and can endanger the child's personal development. Therefore, in facing and overcoming various problems, it is necessary to consider the position of children with all their unique characteristics and traits as perpetrators of crimes. Not only must it look at whether the act is based on thoughts, desires, or feelings, but also must consider various factors that can influence children to commit a crime. Therefore, the role of parents and the surrounding community is needed. In dealing with children as perpetrators of crimes, law enforcement must always pay attention to the conditions of children that are different from adults. The basic nature of children as individuals who are still unstable, the position of children in society that still needs protection, and the future of children as national assets can be used as a basis for finding alternative solutions such as preventing children from a formal criminal justice system, stigmatization of children's status as prisoners, and placement of children in prison.<sup>9</sup>

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<sup>6</sup> Feryanto, "Pontianak Police Secure 24 Teenagers From 3 Gangs Who Were About to Brawl, There Were Sharp Weapons, Arrows, and Pistols," *Pontianak Tribune*, 2024, <https://pontianak.tribunnews.com/2024/12/14/polresta-pontianak-amankan-24-remaja-dari-3-geng-yang-akan-tawuran-ada-sajam-panah-hingga-pistol>.

<sup>7</sup> "Sexual Violence Dominates Child Cases in Pontianak," *Kalbar.suara.com*, 2023.

<sup>8</sup> Syaiful Asmi Hasibuan, "Criminal Policy Against Children Who Commit Domestic Violence," *Responsive Law Journal*, 2019, 26, <https://www.semanticscholar.org/paper/KEBIJAKAN-KRIMINAL-%28CRIMINAL-POLICY%29-TERHADAP-ANAK-Hasibuan/754619f690144072d2d698c21cb49658b4785f77>.

<sup>9</sup> Lilik Yudaningsih Purwati, "Handling of Children's Cases Through Restorative Justice," *Journal of Legal Studies*, 2014, 68, <https://media.neliti.com/media/publications/43277-ID-penanganan-perkara-anak-melalui-restorative-justice.pdf>.

Thus, in order to provide protection for the rights of children who are in conflict with the law, special regulations have been created that regulate the procedures for handling children who commit crimes as stated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Article 5 paragraph (1) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System states that "The Juvenile Criminal Justice System must prioritize a restorative justice approach." Restorative justice is one solution that can be taken in handling juvenile criminal cases, which is implemented through diversion.

According to Article 1 paragraph (6) of the Child Criminal Justice System Law, restorative justice is the resolution of criminal cases by involving the perpetrator, victim, the perpetrator/victim's family, and other related parties to jointly seek a fair resolution by emphasizing restoration to the original state, and not revenge. To achieve this goal, the description of how cases are resolved based on data from the Child Protection Commission shows that 19 cases or 13% were resolved through mediation, 16 cases or 10% were resolved through referral to authorities, 95 cases or 62% were resolved through national coordination meetings in Jakarta and 15% were resolved through direct supervision at the location as well as 23 cases of physical violence in educational institutions resolved through coordination meetings with the Provincial Government, Regional Government and Regional Apparatus Organizations (OPD). 39% of physical violence and bullying occurred at the elementary/Islamic elementary school level, 22% occurred at the junior high/equivalent level and 39% occurred at the senior high/vocational/Islamic high school level.<sup>10</sup>

This research article complements various previous studies related to the application of Restorative Justice to children as perpetrators of criminal acts. Previous research related to the Application of Restorative Justice to Children by Soraya Nurul Aminah, (2021). The research focused on analyzing the factors causing children to commit cyberbullying and analyzing the effectiveness of the application of Restorative Justice to children as perpetrators of cyberbullying at the Makassar Police Headquarters. The results of this study indicate that children commit cyberbullying crimes due to several factors, including internal factors, namely the lack of social control from parents and the surrounding environment, motivational factors that encourage perpetrators to commit cyberbullying, and media factors used as a tool for cyberbullying acts. In conclusion, the application of Restorative Justice to children as perpetrators of cyberbullying by Makassar Police investigators is considered ineffective in realizing justice and balance for children as perpetrators of criminal acts because of the continued prevalence of cyberbullying cases perpetrated by children.<sup>11</sup>

Further research was conducted by Fauzan Sugama (2023). This study focused on analyzing the effectiveness of Restorative Justice implementation in resolving juvenile crime in Indonesia, based on a literature review covering relevant legal literature, laws, reports, and case studies. The results showed that Restorative Justice has great potential to provide more humane justice, but its implementation still faces various obstacles. The main challenges include a lack of understanding of Restorative Justice principles among law enforcement officials, a limited number of trained facilitators, and inadequate supporting infrastructure.

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<sup>10</sup> KPAI.go.ig, "Several cases of bullying have marked the record of children's problems at the beginning of 2020."

<sup>11</sup> Soraya Nurul Amirah, "The Effectiveness of Implementing Restorative Justice Against Children as Perpetrators of Cyberbullying Crimes at the Makassar Police," Indonesian Journal of Criminal Law (IJoCL) 3 No. 1 (2021): 2021, <https://www.neliti.com/publications/43277/penanganan-perkara-anak-melalui-restorative-justice>.

Furthermore, public perception, which tends to favor punishment, also influences the success of this approach.<sup>12</sup>

As a distinction from previous research, this article focuses on finding out how effective the application of restorative justice to children as perpetrators of bullying and the obstacles faced by the Pontianak City Police in implementing Restorative Justice to children as perpetrators of bullying. Seeing the many cases of bullying involving children as both victims and perpetrators, raises concerns about the long-term impact on children's psychological and social development. Therefore, several efforts to optimize the prevention of bullying crimes involving children, such as resolving child bullying crimes through Restorative Justice, are necessary. These efforts are expected to focus on efforts to prevent bullying crimes involving children with the aim of minimizing the causes and opportunities for bullying crimes that can have long-term impacts on children.

The urgency and benefits of this research are based on the idea that for their growth and development, a child needs protection from parents (family), society, and the government. Bullying, or what is commonly referred to as harassment, is an action by a person or group of people who are stronger and more powerful to attack a weaker party; Criminal law is not the only way to resolve legal problems that occur. Criminal law will in principle be used when efforts outside of criminal law cannot be applied, meaning that criminal law is a last resort known as *ultimum remedium*; so the effectiveness of the application of Restorative Justice to children as perpetrators of criminal acts of bullying needs to be studied to ensure that the interests and rights of children as perpetrators of criminal acts remain protected.

This research is expected to provide a contribution of ideas for related agencies and law enforcement officers in coordinating and making policies if necessary as an effort to implement Restorative Justice for children as perpetrators of bullying crimes around Pontianak City so that it can be successful effectively and optimally.

The research method used in this paper is a socio-legal research approach to analyze the application of restorative justice to children as perpetrators of bullying. The sociological method is used in this study because law is not only seen as regulations or norms, but also encompasses how law works in society. By using this method, this research is expected to provide an understanding of law in a social context, analyze the effectiveness of law in society as a means of social control, transform society, and regulate social interactions to achieve a certain level of social justice.<sup>13</sup>

This research was conducted at the Pontianak City Police Resort, West Pontianak Sector Police and the Pontianak City Regional Child Protection Commission (KPAD), on the grounds that in addition to there being several cases of bullying by children against children handled by the Pontianak City Police Resort, it also involved these two agencies.

The collected data were analyzed qualitatively to evaluate the effectiveness of the application of Restorative Justice to children as perpetrators of bullying, including its success in mediating between victims and perpetrators, challenges and obstacles in its application, identifying supporting and inhibiting factors in the application of Restorative Justice to children as perpetrators of bullying, such as legal substance factors, legal structure factors, infrastructure factors, legal culture factors, and community environmental factors and providing

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<sup>12</sup> Fauzan Sugama, "The Effectiveness of Implementing Restorative Justice in Resolving Child Crimes in Indonesia," *Jimmi Multidisciplinary Student Scientific Journal*, 2024, <https://doi.org/10.71153/jimmi.v1i3.148>.

<sup>13</sup> Soerjono Soekanto, *Introduction to Legal Research* (Jakarta: UI Press, 2006).

recommendations to improve the application of Restorative Justice to children as perpetrators of bullying, especially in Pontianak City.

## DISCUSSION

### **The Effectiveness of Implementing Restorative Justice on Children as Perpetrators of Bullying Crimes.**

Crime prevention efforts, known variously as "criminal policy," "criminal policy," or "criminal law policy," are efforts to combat crime through fair and effective criminal law enforcement. In combating crime, responses to perpetrators can take the form of criminal or non-criminal punishments, which can be integrated. Legal enforcement in resolving criminal acts must be in accordance with the criminal justice system in force in a country.

In addition to the application of criminal law (criminal policy), crime prevention can also be carried out through non-penal means. Crime prevention policies through non-penal means focus on improving social conditions, which can indirectly influence crime prevention efforts. Non-penal policies prioritize preventative measures by targeting factors that trigger crime, both directly and indirectly.

In addressing bullying, a non-penal approach can be implemented through preventative measures, primarily within the family and school environment, and, where possible, within the social environment. Collaboration between families, schools, and the government is essential in eradicating bullying.

This is in line with the criminal justice system in Indonesia which has a special focus on law enforcement against children who commit crimes, namely not only based on the Criminal Procedure Code but also based on the Child Criminal Justice System Law. In the Child Criminal Justice System Law, children who commit crimes are termed "children in conflict with the law". Article 1 number 3 of the Child Criminal Justice System Law states that children in conflict with the law are children aged 12 (twelve) years, but not yet 18 (eighteen) years who are suspected of committing a crime, then law enforcement against these children is carried out specifically in accordance with the Child Criminal Justice System. The special approach in the Child Criminal Justice System is regulated in Article 5 Paragraph (1) of the Child Criminal Justice System Law which states that the Child Criminal Justice System must prioritize the Restorative Justice approach.

*Restorative Justice* is a process of resolving criminal acts by involving the perpetrator, victim, victim's and perpetrator's families, stakeholders and the affected community to jointly seek a just solution through peace by emphasizing the restoration of damaged conditions to their original state. Restorative Justice is carried out as an effort to provide an opportunity for the perpetrator to realize and be responsible for his mistakes, and for the victim to offer forgiveness, with the aim of restoring losses, the relationship between the victim and the

perpetrator and to avoid negative impacts in the future, with the aim of achieving benefits and justice.

The law not only provides legal certainty but also provides justice and encompasses aspects of benefit for society. The benefit aspect is achieving a fair and balanced legal decision for both victims and perpetrators. This principle emphasizes the importance of restoration, both in efforts to restore the situation to its original state and to repair relationships within the community damaged by a crime. Furthermore, conflict and dispute resolution based on restorative justice values has long been practiced in Indonesia, particularly among customary law communities, so the application of restorative justice aligns with the local wisdom of the Indonesian people.

Based on the Restorative Justice Guidelines in the General Courts of the Supreme Court (2020), the application of Restorative Justice in cases involving children has several legal bases, namely Law of the Republic of Indonesia Number 4 of 1979 concerning Child Welfare, Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System, Government Regulation of the Republic of Indonesia Number 65 of 2015 concerning Guidelines for the Implementation of Diversion and Handling of Children Under 12 (twelve) Years of Age, Regulation of the Supreme Court of the Republic of Indonesia Number 4 of 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System.

The principle of restorative justice is an option for resolving cases involving children because it directly involves the victim and the perpetrator of the crime, thus requiring the perpetrator to take responsibility for the crime. Furthermore, restorative justice can be a means of redressing the pain or loss experienced by the victim, and the goal of punishment is not solely focused on punishment or inflicting pain on the perpetrator but also on the victim's recovery or rehabilitation. The principle of restorative justice is a form of legal resolution outside the courts that prioritizes peace.

To explore the effectiveness of the implementation of Restorative Justice in the Pontianak City Police Resort, researchers conducted an interview with Mr. Kolpol Tri Prasetyo, as Head of Criminal Investigation Unit of the Pontianak City Police Resort, who stated that there were several cases of bullying where the perpetrators were children that had been handled by the Pontianak Police, the bullying cases handled predominantly occurred in schools, where the perpetrators and victims were children/students of Senior High School (SMA/equivalent), Junior High School (SMP) and there were also students who were still in Elementary School (SD). In handling cases involving children, the police always refer to the applicable laws and regulations, namely the Law on the Juvenile Justice System (SPPA) and the Law on Child Protection. The implementation of Restorative Justice through Diversion is consistently implemented, meaning that in every case involving children, the diversion mechanism and the principles of restorative justice are always put forward and prioritized to find appropriate and

fair solutions for victims and perpetrators. So far, there have been no significant obstacles when the Police coordinated and consulted with other institutions such as the Pontianak KPPAD, Pontianak Bapas, Pontianak Social Services or the school.

From the statement above by Police Colonel Tri Prasetyo, Head of the Criminal Investigation Unit of the Pontianak Police, it can be seen that the application of Restorative Justice to cases involving children can be said to be effective. This means that the police have implemented the laws and regulations professionally, thus acting in accordance with the rules and understanding that the status of children as perpetrators of criminal acts will be treated differently by law than adults. Moreover, the type of crime of bullying can be categorized as a crime that reflects the immature behavior of a person in the adolescent phase. The application of Restorative Justice through diversion is expected to achieve an agreement from both parties that is considered fair, with the principle of prioritizing the welfare of the child. The parties involved in resolving the case, especially the police, act as intermediaries and are not permitted to intervene.

Based on the results of interviews with the Pontianak KPAD, which in this case functions as an institution that supervises all matters involving children. In the past 2 years, the Pontianak City KPAD has not only been a supervisory institution, but also assisted the community in resolving cases involving children, whether children as victims, perpetrators, or witnesses. In February 2024, an emergency regulation was created by the Pontianak City Muspika (coordination forum at the sub-district level in Indonesia) initiated by the Pontianak City Police Chief considering the many cases of brawls involving children. In this emergency regulation, every child facing the law who carries a sharp weapon is not processed through Restorative Justice as regulated in the Child Criminal Justice System Law. With the formation of this emergency regulation, there is a grouping in cases of children facing the law (bullying) which is divided into 2, namely:

*First*, with sharp weapons, that for children in conflict with the law (ABH) with sharp weapons no longer go through the Restorative Justice process, as regulated in the Child Criminal Justice System Law, but rather a direct investigation process by the police based on emergency regulations. In cases of children in conflict with the law (ABH) who do not carry sharp weapons but participate in brawls that carry weapons, sanctions are still given in the form of mandatory reporting to the Police twice a week and KPAD once a week. Currently, KPAD receives cases of children in conflict with the law (ABH) who carry sharp weapons. Almost every month there are cases of brawls involving children handled by the police. In these cases, on average, children carry sharp weapons so they are not processed through Restorative Justice.

*Second*, Non-Sharp Weapons Non-sharp weapon or without sharp weapons is classified as a normal fight, such as a mob attack involving a child without a sharp weapon. This is still mandatory Restorative Justice as regulated in the Child Criminal Justice System Law. In cases of ABH without sharp weapons, the average case can be resolved through Restorative Justice.

A factor in the success of Restorative Justice is the existence of an agreement on compensation paid by the perpetrator. Compensation is an important factor in Restorative Justice. In unresolved Restorative Justice cases, disagreements over compensation from the parties are an obstacle to achieving Restorative Justice implementation. In Pontianak city itself, there is a case that has been going on for almost a year that cannot be resolved through Restorative Justice because the issue of compensation cannot reach a common ground between the two parties. In this case of Restorative Justice, there is no time limit for when Restorative Justice can be completed.

The KPAD's statement above demonstrates that the emergency regulation restricting the application of restorative justice to children carrying sharp weapons demonstrates that the legal approach to child abuse cases is now more selective and assertive, particularly to prevent further escalation of violence. However, for cases not involving sharp weapons, restorative justice mechanisms remain prioritized as the primary solution for resolving cases with a more humane approach and oriented toward the interests of children. The dynamics of resolving cases through restorative justice highlight the importance of the KPAD's role as a mediator in reaching an agreement between victims and perpetrators. However, obstacles in this process, such as disagreements over compensation, indicate the need for additional mechanisms to ensure the effectiveness of restorative child case resolution.

Furthermore, based on the results of an interview with Mr. Panca, an officer in the General Crimes Division of the Criminal Investigation Department at the Pontianak Police, he stated that Restorative Justice is a principle implemented at the Pontianak Police as a form of reconciliation between the perpetrator, the perpetrator's family, the victim, and the victim's family. The implementation of Restorative Justice is considered beneficial because children still have a long future and need to receive an education. If children who commit crimes are processed like perpetrators of crimes committed by adults, this will certainly affect their future. The implementation of Restorative Justice facilitates the performance of the police in carrying out their duties, with Restorative Justice, the procedure for handling a criminal case becomes shorter. In implementing Restorative Justice to resolve crimes committed by children, the Police refer to Law No. 11 of 2012 concerning the Juvenile Justice System and is based on Police Regulation No. 8 of 2021 concerning Police Mechanisms and Procedures in the Implementation of Restorative Justice. The police are the initial stage in handling criminal cases. The implementation of Restorative Justice involves not only the victim and the perpetrator, but also the victim's parents, the perpetrator's parents, the Child Protection Agency (Bapas), the Indonesian Child Protection Commission (KPAID), and police investigators. Each is tasked with providing recommendations or input without dictating or forcing the parties to choose a form of case resolution, so that the desire for problem solving and the form of problem resolution are purely based on the agreement of both parties. Furthermore, the involvement of the parties is crucial, especially investigators who usually serve as mediators, so that the Restorative Justice process remains integrated with the criminal justice system, and the results

of Restorative Justice decisions have legal force. The resolution of criminal acts committed by children through Restorative Justice must be agreed upon by the relevant parties, and if there is no agreement, the settlement of the crime is carried out in accordance with applicable legal procedures. Throughout 2021-2023, the Pontianak Police recorded a total of 60 cases of bullying, reported to the Police, Sector Police, and the Pontianak Child Protection Commission (KPPAD). In 2024, as of June, there had been 107 cases of bullying or violence. And this data can continue to increase until the end of the year because the trend, if observed, tends to increase, and these cases are dominated by violence by children committed by students at both elementary, middle and high school levels.

Discussing law enforcement often leads to the effectiveness of its application. Therefore, the researchers concluded that the application of restorative justice to bullying committed by children at the Pontianak Police Station was effective. This is based on several factors, including:

*First, Legal Substantive Factors.* Very strict selection regarding the minimum age limit for children who can be processed legally. In Law No. 11 of 2012, the age limit for children in conflict with the law is 12 years old but under 18 years old and children under 14 years old can only be subject to action. If it is not considered sufficient, the child can be given a punishment to compensate the loss to the victim. In this case, the police have acted in accordance with applicable regulations, because the understanding of the position of children in conflict with the law is different from the handling of adults.

*Second, Legal Structure Factors.* Implementing restorative justice through diversion in child cases, particularly bullying, requires the Pontianak Police Department to work alone. This means that other institutions and agencies must be involved, such as the Pontianak Child Protection Commission (KPPAD), Pontianak Child Protection Agency (Bapas), schools, and others, all of which have a stake in the protection, welfare, and well-being of Indonesian children. Therefore, a separate legal structure is required to implement restorative justice mechanisms.

*Third, Facilities and Infrastructure Factors.* In terms of facilities and infrastructure, the Pontianak City Police Department is considered quite capable of implementing restorative justice in bullying cases involving children. This is evident in the smooth coordination that has led to the police being appointed as the Chief Coordinator for handling legal issues involving children, such as human or child trafficking, violence against children, and bullying cases.

*Fourth, Legal Culture Factors.* The community finds it difficult to accept the application of Restorative Justice as an alternative in resolving criminal acts committed by children, due to the paradoxical community culture in assessing the handling of children and assuming that every unlawful act from handling to resolution must be given a sanction, in the form of criminal sanctions/imprisonment. This can be seen in several cases of bullying that are hanging,

meaning that the victim has not agreed to the agreements offered, so the report on the case is reluctant to be withdrawn and wants to continue with the process according to applicable law.

*Fifth, Community Environmental Factors.* The key to the success of Restorative Justice is the agreement of the perpetrators and their families. In this regard, the community plays a significant role in the Restorative Justice and diversion process, providing a neutral perspective. It is hoped that the community will be involved, even indirectly, in preventing crimes before they occur and monitoring cases that have already occurred, so that the community's role in providing legal protection for Indonesian children can be implemented.

In cases of bullying, criminal justice should be avoided. If a child is sentenced to prison or confinement, it can have a profoundly traumatic effect on their development. In cases involving children, imprisonment or confinement is a last resort and must be decided very carefully, taking into account the child's best interests and ensuring that there are no other adequate alternatives to rehabilitate the child who violated criminal law. Bagir Manan believes that prison is not an ideal place to rehabilitate criminals; in fact, prisons are often referred to as high schools for crime. This will undoubtedly impact a child's development.

Therefore, the right step forward to resolve school bullying cases is to develop the concept of restorative justice. This concept is an alternative to the juvenile justice system in Indonesia, which prioritizes a welfare and justice approach. The goal of the restorative justice concept is to reduce the number of children arrested, detained, and sentenced to prison (Anis Widyawati, 2013; 71). With this approach, the stigma or labeling of children as perpetrators of criminal acts is removed and children are returned to normal human beings within society. Children are expected to grow into better adults and be useful in society. Of course, to achieve this, good cooperation is needed between all relevant parties, especially those who transfer schools where children receive their education.

### **Obstacles Faced by the Pontianak City Police Resort in Implementing Restorative Justice for Children as Perpetrators of Bullying Crimes**

According to Police Colonel Tri Prasetyo, the most dominant factor in the ineffectiveness of the implementation of Restorative Justice is the "legal culture and community environment" factor.

Legal culture factors significantly influence the success of Restorative Justice. Generally, Indonesian culture, which views every perpetrator of a crime as deterrent, still strongly holds the view that every perpetrator of a crime must be punished by imprisonment. The view that focuses solely on the act in criminal law has long been abandoned in the theories of criminal law schools. Modern criminal law schools have seen a paradigm shift, where the focus of criminal law is not only based on the act but also on the perpetrator (*dader*), so who committed the crime must be considered in the criminal justice system. In dealing with and overcoming the perpetrator of the crime is a child (under 18 years old), according to Renita Dharma Pratiwi, "it is necessary to consider the position of the child with all its unique characteristics and traits

as a perpetrator of the crime, not only looking at whether the act is based on thoughts, feelings, and will but also looking at various factors that can influence a child to commit a crime. Therefore, the role of parents and the surrounding community is needed."

**Community Environmental Factors.** Legal protection for children is an obligation for all Indonesian citizens, therefore, the community is required to play a role in addition to the state and government. A positive community environment certainly leads to a positive direction for children's physical and psychological development, as well as their morals. Direct community involvement in the implementation of Restorative Justice can be achieved through supervision, providing advice and opinions, and not objecting to being a witness when necessary in criminal or extrajudicial proceedings. Non-penal response efforts must be prioritized to address the rampant criminal acts of bullying that occur among children and adolescents. Bullying, which frequently occurs in schools, is a serious problem that can significantly impact students' ability to develop academically and socially. The active role of all students, parents, and school officials is needed to ensure that students can learn safely and free from a frightening environment.

Therefore, bullying is an issue that should not be underestimated, ignored, or even denied. Students who are victims of bullying will go to great lengths to avoid such behavior, which can negatively impact the child's psychology, trigger mental health problems, and reduce their interest in learning at school. Bullies will struggle to maintain social relationships, develop increasingly severe antisocial behavior, and receive negative labels. Students who witness bullying can also be influenced to engage in bullying themselves.

Parents play a vital role in instilling values and norms that prevent all forms of bullying, whether violent or verbal. Children should be given adequate attention and supervision, and a good parent-child relationship should be established to prevent them from losing or lacking parental attention and seeking attention at school by asserting their power over someone perceived as weaker than them. Parents should instill in children an understanding of the prohibition against bullying from an early age. This understanding will help children avoid bullying others perceived as weaker than them or those who are different from them, and will enable them to stop someone from committing bullying.

The role of schools is equally important in efforts to overcome bullying in children, considering that schools are places to interact with peers, so schools must be able to provide a safe and supportive school environment so that students can grow without fear. Special guidance is needed for children to care for one another and not to hurt each other so that children can avoid the possibility of having no guidance in choosing playgroups that will cause children to fall into playgroups that lead to juvenile delinquency. Activities involving seniors are always close to juniors and always work together at school. This program is a real and conventional effort to prevent seniority and bullying.

Schools need to implement integrated character development and education into classroom-based activities, school culture, and community-based character education. Character development can be achieved through ethics education and consultation between students and teachers, where students can share experiences and seek solutions through individual and group counseling services. Effective character education requires collaboration between parents and schools to develop children's character, embracing virtue, respecting differences, and avoiding harming others.

This effort requires ongoing processes and efforts, such as outreach and the creation of special programs. Classroom-based character education can be implemented through the practice of praying before and after class, providing advice on focus, discipline, and good behavior, linking lesson material to character values, and providing positive examples. Meanwhile, school culture-based character education can be implemented through activities outside the classroom, such as flag ceremonies and community service activities.

Furthermore, as a preventative measure to address bullying, schools need to integrate bullying-related materials into specific learning materials. This bullying-related material includes the definition of bullying, its impact, and examples of bullying cases in Indonesia and abroad, delivered in a method that captures students' attention and is easy for them to understand. Teachers are expected to possess sufficient knowledge to impart to students, as they play a crucial role in conveying this material. In addition to teachers, schools can collaborate with psychologists or experts who are experienced in handling bullying issues to provide education to students.

In addition, schools can also implement an anti-bullying pilot program to monitor student behavior in the school environment. This program can be implemented in collaboration between the school and the Department of Education to provide guidance to students regarding bullying behavior so that students become more sensitive to bullying behavior in order to create a safe and bullying-free school environment. Activities carried out in this anti-bullying program include declarations related to anti-bullying and involving all students to monitor their friends' behavior and report to teachers, especially Guidance and Counseling teachers, if bullying occurs so that teachers, especially Guidance and Counseling teachers, can immediately follow up by calling students who are indicated to be involved in bullying, whether as victims, perpetrators, or witnesses of the bullying action.

In addition, a program can also be created by asking students to fill out a questionnaire about students, such as whether there are learning difficulties faced by students, whether students need special programs to deepen students' understanding of the subject, teacher report questionnaires on student attitudes, and efforts to overcome bullying. This questionnaire, in addition to minimizing the occurrence of bullying in the school environment, is also expected to increase students' interest in going to school and improve students' quality in the academic world. To support this program, enforcement of school regulations needs to be considered,

including regulating a points system for students who commit violations by implementing a suspension system for those who exceed the maximum point limit or even having the student leave the school by transferring to another school. These regulations must be approved by the Education Office and have been agreed upon by the students' parents. These regulations include things such as general explanations, student rights, student obligations, appearance and attitude, behavior, environmental cleanliness, sanctions, and others.

In addition to formulating and developing learning models that can reduce violence against children, anti-violence education also needs to be implemented to provide an understanding of the impact of violence on children, its prevention, and its handling. Anti-violence education, which is part of character education, prioritizes social, love, and compassion, while upholding human rights in the educational process. Anti-violence education aims to distance oneself from actions and words that lead to violence, both physical and psychological.

Schools and educational institutions provide a space for students to compete healthily to improve their quality of life. Schools and educational institutions offer programs that engage students in positive competition, such as in sports and the arts, allowing them to showcase their abilities. Furthermore, schools offer programs that connect upperclassmen and underclassmen, such as mentoring and brother-sister programs in school. These programs can help prevent the potential for seniority and bullying, as well as foster harmonious relationships among all students at the school.

## **CONCLUSION**

Based on the author's research, it can be concluded that throughout 2021-2023, the Pontianak City Police Resort recorded a total of 60 bullying cases, reported to the City Police, Sector Police, and the Pontianak Child Protection and Education Office (KPPAD). As of June 2024, there had been 107 cases of bullying or violence. This data is biased due to the continued increase until the end of the year. These bullying cases were dominated by child abuse perpetrated by students at elementary, middle, and high school levels. The application of restorative justice in the form of diversion is the primary option for the police in handling bullying cases involving children.

The effectiveness of implementing restorative justice through diversion depends heavily on both parties: the victim and the victim's parents, as well as the perpetrator and the perpetrator's parents. The Pontianak City Police Department's role in handling and resolving bullying cases involving children is limited to mediation and must not intervene with either the perpetrator or the victim. Some bullying cases that are not successfully resolved through restorative justice are due to a failure to reach an agreement, particularly with the victim.

The roles of parents and schools are crucial in preventing and addressing bullying among children. Parents need to instill anti-violence values from an early age, while schools must create a safe and supportive environment, implement character education, integrate anti-

bullying materials into the curriculum, and involve students in positive programs. Collaboration between parents and schools is essential to fostering children's character with noble character, respect for differences, and avoidance of bullying behavior.

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