


# Children In Conflict With The Law In Criminal Acts Of Sexual Violence

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Article Info	ABSTRACT
<b>Keywords:</b> Sexual Violence, Restorative Justice, Minor Perpetrators	Sexual violence is a serious crime that violates human rights. Based on Law no. 12 of 2022 concerning Crimes of Sexual Violence, minors who commit crimes of sexual violence can still be resolved outside of court. Meanwhile, adult perpetrators must go through the process of inquiry, investigation and prosecution until they go to court. Meanwhile, from the research results obtained, cases of sexual violence committed by minors continue to increase every year and the cases are increasingly complex and diverse. Victims of criminal acts of sexual violence experience trauma, physical impacts, and ostracism in society so that nothing can be replaced, including perpetrators of sexual violence who are minors, so Law no. 12 of 2022 concerning the Crime of Sexual Violence, especially article 23, needs to be reviewed immediately considering that nowadays most minors can access the internet easily and supervision is less strict, thus affecting their sexual behavior. This is certainly detrimental to this nation because children are the nation's next generation in the future.
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## INTRODUCTION

Indonesia is a state of law, this is expressly stated in the 1945 Constitution of the Unitary Republic of Indonesia Article 1 paragraph 3, namely that Indonesia is a state of law, based on Pancasila. The state of law based on Pancasila means that a legal system is established based on the principles or norms contained in the values contained in Pancasila as the basis of the state. As a state of law, of course, all actions in the life of the nation and state must be regulated by law. Law as a social institution has an important role in society to create peace, justice and security as well as regulate all human actions that are prohibited and ordered.

Law enforcement is not a logical process alone but is loaded with human involvement in it. The inclusion of human factors makes law enforcement full of behavioral dimensions with all the accompanying factors (Prakorso, 2021). Law as a system can play a good and correct role in society if the implementation instrument is equipped with authorities and law enforcement fields. Two of these authorities are the Police and the Prosecutor's Office.

The components that work together in the criminal justice system are the police, prosecutors, courts, and correctional institutions. These four components are expected to work together to form what is known as an integrated *criminal justice system* (Alvin Syahrin,

2018). Recently, there has been an increasing awareness that the conventional punitive approach to criminal justice is not always the most effective or compassionate method of addressing criminal behavior (Sihombing & Nuraeni, 2023).

Law No. 2 of 2002 on the National Police, Article 1 letter 6, states that: "Internal security is a situation characterized by the assurance of security and public order, order and the rule of law, as well as the implementation of protection, protection, and services to the community". The Indonesian National Police (POLRI) is one of the tools of the state to enforce the law against criminal acts in order to maintain security and order, protection, protection and service to the community by upholding human rights. As stipulated in the Law of the Republic of Indonesia (UURI) Number 2 of 2002 concerning the National Police in Article 13 which reads "The main tasks of the National Police are to maintain security and public order; enforce the law; and provide protection, protection and services to the community".

The implementation of law enforcement related to the National Police has been classified into 4 (four) groups, namely conventional crimes, transnational crimes, crimes against state assets and crimes with contingent implications. Of the four groups of crimes, the most prominent is the crime of sexual violence. The prosecutor's office as one of the law enforcement agencies has a very vital role, especially in terms of prosecuting criminal cases. In addition to acting as a public prosecutor in the trial process, the prosecutor's office also has another important role, namely in improving the Minutes of Investigation submitted by the police as investigators. The dossier of the Minutes of Investigation from the investigator that is submitted to the prosecutor's office often has deficiencies or is incomplete and also imperfect. One of the duties of the prosecutor's office in the pre-prosecution process as stipulated in Article 138 paragraph 2 of the Criminal Procedure Code (KUHAP) is to return the file of the Minutes of Investigation to the investigator along with instructions to be completed and perfected.

To realize the goal, the state must be present by providing protection for all citizens without conditions to fulfil their constitutional rights that have been regulated in the 1945 Constitution. Some of the constitutional rights that citizens have are the right to life, the right to be free from threats, discrimination and violence. This right is an important right to be implemented. The fulfilment of this right is also related to other constitutional rights, namely the right to protection and the right to justice, which are important to emphasize in handling cases of sexual violence (Siahaan Maruarar, 2022).

The rise of criminal acts of sexual violence cases that occur is clearly very disturbing to the community. One of the main tasks of the National Police in realizing justice, benefit and legal certainty in the country is through the process of investigation and investigation. Based on Article 1 paragraph (2) of the Criminal Procedure Code, what is meant by investigation is a series of efforts by investigators in the manner stipulated in the Law to seek and collect evidence of a criminal act which with the evidence makes light of the criminal act that occurred and to find out who the suspect is. Meanwhile, investigators according to Article 1 paragraph (10) of the Police Act No. 2 of 2002 are officials of the Indonesian National Police who are

authorized to conduct investigations. The process of investigation and investigation by Police investigators is the first entry point in law enforcement through the criminal justice system in Indonesia. The investigation process of a criminal case is the main key to determining whether or not a criminal case can proceed to the prosecution and criminal justice process.

In general, problem or dispute resolution can be pursued in two ways, namely by using litigation and non-litigation channels. Basically, both of these paths aim to create justice for society in general (Saida Flora, 2018). In the implementation of the criminal justice system, those who have restorative justice regulations are the police and the prosecutor's office. Restorative justice regulations in the police are Police Regulation No. 8 of 2021 and in the prosecutor's office, namely Prosecutor's Regulation No. 15 of 2020, which contains what criminal offences can or cannot be carried out *restorative justice*.

Based on the research background as described above, the main problem in this research is Article 23 of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence in the criminal justice system relating to the application of restorative justice. Where it reads that every person who commits a criminal offence of sexual violence cannot be carried out the application of restorative justice except for child perpetrators. This creates confusion in the application of law enforcement, especially the police as the gateway to a criminal process.

## METHODS

In accordance with the title and problems to be discussed in this study and in order to provide useful results, this research was conducted with normative juridical research (normative legal research method). The normative juridical research method is library legal research conducted by examining library materials or secondary data only (Soekanto & Mahmudji, 2003). Another research specification is the sociological aspect. Soerjono Soekantodefines sociology as a science that limits itself to judgement. Sociology does not determine which way something should develop in the sense of providing clues concerning the social wisdom of the process of living together. In this science, social processes are also discussed, considering that knowledge of the structure of society alone is not enough to get a real picture of the common life of humans (Soekanto, 2001). The sociological approach in this research is used to describe and explain how the condition of victims after a criminal offence occurs.

The research stage includes levels or spans in the research. The stages of this research are structured, coherent, standardized, logical and systematic. Normative juridical research as mentioned above is research by analyzing the problems in the research through an approach to legal principles and referring to legal norms contained in existing laws and regulations in Indonesia and using types of data from library materials which are commonly called secondary data. This research consists of binding literature materials which are primary legal materials and secondary legal materials. All data that has been obtained and collected will then be reviewed and analyzed by means of qualitative analysis. Analysis for qualitative data is carried out by selecting articles that contain legal principles

governing the settlement of cases of sexual violence, as well as the application of the Indonesian National Police Regulation Number 8 of 2021 concerning Handling Crimes Based on Restorative Justice related to these criminal offences, then colliding them with the principles of criminal law which state that peace does not eliminate punishment in accordance with the problems discussed in the study.

## RESULTS AND DISCUSSION

### Analysis of the Application of Restorative Justice in Crimes of Sexual Violence Committed by Minors

The restorative justice approach in the form of diversion in the Juvenile Justice System Law (SPPA) has changed the conventional criminal justice system from (previously) law enforcement and judges playing a role in determining case handling to the involvement of victims, family/victims, and other related parties to jointly seek a fair resolution of the case (Suhariyanto, Mulyadi & Hakim, 2021).

Basically, the stages of diversion and restorative justice are almost the same. However, the difference is that diversion can only be applied to minors who commit criminal offences (12-18 years old) and the case does not exceed 7 years of punishment in accordance with Law No. 11/2012 on the Juvenile Criminal Justice System. However, for restorative justice, each law enforcer has different regulations. This is clearly a problem for its application, because there is no KUHAP that regulates it.

Through the application of restorative justice, the pattern of handling and resolving cases is not only "*top down*" or only relying on the authority (monopoly) of the state, but "*bottom up*" by accommodating the roles and interests of the parties involved, namely perpetrators, victims, and the community to formulate agreements in case settlements that are oriented towards restoring the original situation (before the criminal act). This is in accordance with the 2021 Police Regulation on case handling based on restorative justice in Article 1 paragraph (3) which reads:

"Restorative Justice is the resolution of criminal offences by involving perpetrators, victims, families of perpetrators, families of victims, community leaders, religious leaders, traditional leaders or stakeholders to jointly seek a fair settlement through peace by emphasizing restoration to the original state."

It is clear that the basis for the application of restorative justice is the restoration or the original state of the victim. However, restorative justice cannot be applied to victims of sexual offences, because the losses incurred are not material losses, but immaterial losses that cannot be valued.

Cases of sexual violence committed by minors, especially in Indonesia, are increasing every year, some examples of cases that prove that cases and sexual behavior of children are increasingly complex and must be addressed immediately are first, a case of sexual violence with Police Report Number: LP/B/274/III/2023/SPKT/POLRESTABES, dated 10 March 2023. This case alleged that on Tuesday 7 March 2023 the victim was staying at her friend's house, when her friend went out suddenly her friend's boyfriend entered the boarding house and forced the victim to have sexual intercourse, because she was afraid

and forced the victim did not resist. However, in this case the parties reconciled. Secondly, the author also encountered a case of sexual violence with Police Report Number: LP/B/141/II/2023/SPKT/POLRESTABES. The crime of sexual violence was initially recognized by the complainant, namely the victim's mother, who was contacted by the school teacher of her 12-year-old child complaining that she had previously been sexually assaulted by the perpetrator, a minor, and the perpetrator's friend, the victim was given alcoholic drinks and then taken to a boarding house. But in fact, the parties decided to reconcile and forgive each other.

There are several cases of criminal acts of sexual violence that often occur in the jurisdiction of the Bandung Police Station, generally the mode used by child perpetrators is by forcing victims who are women whose strength is smaller than men. Therefore, the author's attention is drawn to the next case which the author will describe and use as an object of research. The third case was based on an investigation report that the author encountered in relation to the crime of sexual violence, Police Report Number: LP/B/1526/X/2023/SPKT/POLRESTABES, dated 12 October 2022. It was stated that the modus operandi of the child perpetrators was to threaten the victim with a sharp iron so that the victim would eventually be molested by the perpetrators.

The case of sexual violence protection with Police Report Number: LP/B/1526/X/2022/SPKT/POLRESTABES which occurred at the Bandung Police Station is classified as a crime of sexual violence as regulated in Article 82 Jo 76E of UU RI No. 17 of 2016 concerning the Stipulation of Government Regulation in Lieu of UU RI No. 1 of 2016 concerning the Second Amendment to UU RI No. 23 of 2002 concerning Child Protection into Law, which reads: "Every person who violates the provisions as in Article 76E shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp.5,000,000,000, - (five billion rupiah)".

The fourth case example is in Tabalong, South Kalimantan where the age of the underage perpetrators is 15 and 16 years old, one of the perpetrators invited the victim from Muara Uya Subdistrict to go to Jaro Subdistrict, but instead was taken to the house of another perpetrator. While at the house, one of the child perpetrators had intercourse with the victim. Then, the other perpetrators also participated in committing depraved acts against the victim (Laminati, 2023). From this case, a criminal case was handled by means of restorative justice, the implementation of restorative justice in cases of sexual violence against children in accordance with Police Regulation number 8 of 2021 concerning Handling Criminal Acts Based on Restorative Justice.

The latest case occurred recently in Pekanbaru, on 23 November 2023 there was an alleged crime of sexual violence against a child by a minor. They both attended the same kindergarten and were both male. According to his confession, the minor perpetrator committed the offence by poking and playing with the victim's genitals four times (Crismonica, 2024). However, the case is now still in the mediation stage between the victim's family and the perpetrator's family.

The rapid development of globalization has positive and negative impacts on all

aspects of life, including children. Since Covid-19, almost all children who are still in school are studying at home through applications connected to the internet. The negative effect that occurs is that children can freely access the internet, so when parents are careless children can access adult content that has a bad impact on them. This is the biggest trigger for cases of minors committing sexual violence.

Children are the next generation of the nation who will continue the ideals of the nation in the future, how will the nation go forward if there are many criminal acts committed by minors, especially sexual violence which is very disturbing to everyone. The problem of sexual violence is one form of crime that harasses and tarnishes human dignity, and should be categorized as a type of crime against *humanity* (Hasan, 2011). Therefore, the protection of sexual violence rights from violence should be respected, upheld and enhanced human dignity without discrimination, welfare and justice against sexual violence.

One of the efforts in resolving criminal offences that occur in community life is not only through law enforcement efforts, but through a *restorative justice* approach that is different from the conventional criminal justice system, where this approach emphasizes the direct participation of perpetrators, victims and the community in the process of resolving criminal cases. There are many terms used to describe the concept of *restorative justice*, such as *communitarian justice*, *positive justice*, *relational justice*, *reparative justice*, and *community justice* (United Nations, 2006).

Restorative justice can only be applied to criminal offences before the Investigator sends a Notice of Commencement of Investigation (SPDP) to the Public Prosecutor. Restorative justice can be applied to all criminal offences except repeated criminal offences, drug offences, and terrorism offences as stated in Article 5 of Police Regulation No 8 of 2021. This of course must fulfil specific general requirements as required in Article 3 paragraph (1) of Police Regulation No. 8 of 2021 on Handling Criminal Offences based on Restorative Justice, which reads: "Handling of Criminal Offences based on Restorative Justice as referred to in Article 2 must fulfil the following requirements: a. general; and/or b. special." The general and special requirements are further regulated in Article 15 paragraphs (1), (2), and (3), stating:

- 1) Termination of Investigation or Investigation of Criminal Offences as referred to in Article 2 paragraph (5) shall be conducted by submitting a written request to:
  - a. Head of the National Police Criminal Investigation Agency, for the National Police Headquarters level;
  - b. Regional Police Chief, for the Regional Police level; or
  - c. Chief of Resort Police, for Resort Police and Sector Police levels.
- 2) The application letter as referred to in paragraph (1), is made by the perpetrator, victim, family of the perpetrator, family of the victim, or other related parties.
- 3) The application letter as referred to in paragraph (2) shall be accompanied by documents:
  - a. a statement of peace; and
  - b. evidence of victims' rights being restored.

This *restorative justice* approach is often applied with a peace process between the

complainant and the reported party as evidenced by a peace agreement letter (*akte dading*) witnessed by 2 (two) witnesses from both the reporting witness and the victim witness. Broadly speaking, this is in accordance with what is required in Article 15 paragraph (3) letter a.

It was found that investigators often stop sexual violence cases where the perpetrator is a child due to the revocation of the report from the reporter. In addition, investigators also guided the mandate of the Sexual Violence Crime Law, which is stated in Article 23, which reads: "Criminal Acts of Sexual Violence cannot be resolved outside the judicial process, except for child perpetrators as provided for in the Law." However, this contradicts the goal of *restorative justice*, which is the restoration of the victim, where the offender, whether adult or child, still has wounds that cannot be replaced by material or material means. *In its most idealized form, there are four Rs of restorative justice: repair, restore, reconcile, and reintegrate the offenders and victims to each other and to their shared community* (Menkel-Meadow, 2007).

For example, in a case of sexual violence protection at the Bandung Police Station, the victim was forced to engage in sexual activity three times, in addition to the victim and the perpetrator being children under the age of 18, the fact that they were male peers, based on Police Report Number: 1526/X/2022/SPKT/POLRESTABES during the investigation and investigation, in the middle of the process there was a statement letter written by both parties that the parties had made peace and were ready to compensate for the losses that the victim wanted both material and immaterial. Finally, the parties agreed to forgive each other and reconcile, the peace made between the complainant and the reported party was outlined in a peace agreement signed by the parties, and in the contents of the agreement stated that the reported party promised to pay the losses suffered by the complainant, namely for the cost of psychological recovery carried out in stages by the victim. After the peace process was successfully pursued by the parties, then the complainant submitted a letter of withdrawal of the complaint by attaching the peace agreement letter. Then on the basis of the peace and revocation of the complaint report, the investigator followed up by conducting a special restorative justice case title to stop the investigation of the case.

Based on the description of the criminal offence case above, it appears that the investigator only focuses on the peace agreement letter as the basis for terminating the criminal offence investigation. The mandate in Article 15 paragraph (3) letter b of Police Regulation Number 8 of 2021 concerning Handling Criminal Offences based on Restorative Justice in the process of its application by investigators seems to be ignored. On the other hand, the restoration of victims' rights is the most important aspect to be considered by investigators in the settlement of sexual violence protection cases based on restorative justice in order to create legal certainty for victims, considering that the implementation of the concept of *restorative justice* is a process of resolving criminal cases with the aim of achieving justice that is fully implemented and achieved by the perpetrators, victims, and the wider community (Edi Setiadi, 2017).

A person who is a victim of a sexual crime will have a feeling of fear in the future if

the community becomes aware of what happened to him, because a sexual crime is a disgrace to him and his family (Nurini Aprilianda, 2017).

In the restorative justice approach, it is known or settlement with a process outside the criminal justice system, which is often understood as "peace" and "kinship". In the context of restorative justice, it is not to avoid the perpetrator from legal responsibility, but to find a more essential settlement model (Wadjo & Saimima, 2020). One of the vital efforts made by the government in realizing an orderly, just, peaceful and prosperous state and society is by enforcing the enactment of material laws in the State society by using its legal apparatus, namely the police (Husin, 2020). According to Satjipto Rahardjo, police officers in the field exercise discretion, because if the general provisions are forced to be applied to certain unique events, then the law can risk causing social upheaval. Actually, the law does not plan to make such a commotion, so a police discretion is needed. With police discretion, the law can find its meaning.

Police discretion is one of the powers possessed by POLRI as stipulated in Article 18 paragraph (1) of Law Number 2 of 2002 concerning the Indonesian National Police. Discretion is the authority possessed by the Police in carrying out their duties and authority to be able to act according to their own judgement. Discretionary authority by the police has great power because the police can make decisions where the decision can be outside the statutory provisions, but is justified or allowed by law. However, in its application, POLRI is required to be able to interpret its environment with the wisest possible judgement. In exercising discretion, every member of the National Police must act by considering the benefits and risks of their actions and truly in the public interest.

#### **Analysis Factors and impacts of sexual violence by children in conflict with the law**

Originally, there were no official restrictions and no interference by the authorities with crime. Crime was initially seen as a personal or family matter. Individuals who felt they had been victimized by others would retaliate against the perpetrator or their family. This concept can be found in older legislation, such as the Hamurabi Code (1900 SM), Ancient Roman legislation. (450 SM) and in ancient Greek society such as cow stealing pay cow. This concept of retaliation is also found in the Old Testament, *eye for eye* (Sahat Maruli, 2021).

According to the Big Indonesian Dictionary, crime is behavior that is contrary to the prevailing values and norms that have been endorsed by written law. Therefore, it can be said that crime is an act that is prohibited by values and norms as well as those who do it will be punished in accordance with the actions they commit. There are several definitions of crime, juridically crime is any human behavior that is contrary to the law, punishable as regulated in criminal law. Meanwhile, criminologically, crime means certain actions or deeds that are not approved by society.

Wolfgang, cited by Wahyu Muljono (2022) divides criminology as an act referred to as crime, the perpetrator of the crime, and the reaction shown both to the act and to the perpetrator. Meanwhile, criminal etiology is the science that investigates or discusses the origins or causes of crime (causa of crime). To qualify an act as a crime, there are 7 (seven) main interrelated elements that must be fulfilled, namely:



- 1) There are actions that cause harm;
- 2) These existing harms are regulated in the Criminal Code (KUHP);
- 3) There must be a *criminal act*;
- 4) There must be criminal intent (criminal intent-mens rea);
- 5) There is a fusion between evil intent and evil deeds;
- 6) There must be a nexus between the harms set out in the Penal Code and the offences;
- 7) There should be criminal sanctions against such behavior.

Wahyu Widodo (2015) The history, understanding, and main elements of crime have been mentioned above, in the perspective of criminology there are several factors for the occurrence or emergence of a crime:

- 1) Internal factors, namely motivation or encouragement that arises from within a person to take action, which includes:
  - a. Intelligence
  - b. Age
  - c. Gender
- 2) External factors, namely motivation of encouragement that arises due to influences from outside a person, which include:
  - a. Education factor
  - b. Family
  - c. Economics

Moving on to sexual crimes or sexual violence. According to Article 1 of Law 12 of 2022 on Criminal Acts of Sexual Violence, sexual violence is any act that fulfills the elements of a criminal offence as regulated in this Law and other acts of sexual violence as regulated in the Law to the extent specified in this Law. So in this Law there are many forms or actions that are included in sexual acts, such as harassment, sexual intercourse, forced marriage, and all forms of sexual behavior where there is *consent*. In relation to criminological theories, the causes or factors of sexual violence are internal and external factors. From the data obtained, that both factors play a role in the occurrence of criminal acts of sexual violence. However, the biggest factor is external factors where a strong environment can be the biggest factor in the occurrence of a crime of sexual violence.

The times have both positive and negative impacts, unfortunately the rampant sexual violence is also caused by sophisticated communication tools. In the perspective of criminology, technology can be one of the criminogenic factors, namely factors that can cause a person's desire to commit a crime and facilitate crime. Not only physical violence occurs a lot, but as technology develops non-physical violence has also become something scary in life, especially for women (Purnama Sari et al, 2020).

It was explained in the Minutes of Examination at the Bandung Police Station that the minor admitted that the reason he committed the act against the victim was because he often watched pornographic films on a website. Since covid-19 all students in Indonesia use *zoom meetings* to conduct lessons, starting from there they have to use communication tools in the form of mobile phones to help lessons take place even today. The existence of indecent advertisements or the curiosity of these children makes them

easily access content that minors should not see, and that is a strong factor in how sexual violence can occur even by minors.

Children are the next generation of the nation who will continue the noble ideals of the nation and state. Therefore, we must prepare a good future generation, so that the ideals of the nation can be realized. However, along with the times it turns out that more and more minors are becoming perpetrators of sexual violence, even the cases are increasingly complex and unacceptable to reason. In the ever-evolving digital era, technological developments have a significant impact on social relationships and family dynamics (Sihombing, 2023).

Kalyanamitra Women's Communication Forum and Rifka Anissa, each of which submitted dissatisfaction with the settlement of the crime of rape by submitting data on rape which they thought the settlement was unfair and even marginalised the fate of the victim. The data in question include the Sum Kuning case, the Baringharjo case, the case in Soppeng, South Sulawesi, where the public prosecutor's demand of eight years was only sentenced to one month in prison (Wahid & Irfan, 2011).

These issues have a negative impact on victims and their families. Because victims of sexual violence not only suffer mental loss and mental trauma, but also immaterial losses that cannot be replaced with anything. Most rape victims prefer to remain silent, resigned to accepting the fate of the suffering they endure rather than reporting the incident to the police apart. The fate of victims who are faced with an exclusive situation, all of which limit themselves from socializing with others, especially men, because they feel tainted, no longer valuable in the eyes of a society that reveres chastity in the sense of virginity.

From the description above, there are so many impacts experienced by victims of sexual violence, as well as those committed by minor perpetrators or the legal language is children in conflict with the law or commonly called ABH. Adult perpetrators and ABH still have the same impact on victims, therefore there should be no difference in legal treatment for perpetrators of sexual violence, but still pay attention to the Juvenile Criminal Justice System when children are still in the framework of the criminal justice process.

Another impact is that children who are victims of sexual abuse tend to be afraid to report because they feel threatened to experience bad things when the investigation process and so on takes place. Where the victim thinks that she will often go to the police station and surely the whole neighborhood knows what happened to her. So, the victim thinks she is dishonoring her family name.

Nurbayani & Wahyuni (2023) In addition to the above impacts, there are categories of spiritual and physical impacts experienced by victims of sexual violence, including:

- a. The spiritual impact of sexual violence on victims has obvious effects on their behavior and emotions that can be observed by those closest to them such as changes in eating behavior, enthusiasm, fear, and so on. Sexual violence can also be psychologically debilitating, especially if it happens to children who do not have an adequate understanding of sexuality.
- b. The physical impact of sexual violence can cause eating and sleeping disorders, pain to, or pain in the genital area, and risk of sexually transmitted diseases, body injuries.

The worst impact on the victim is a change in attitude and high traumatism when seeing the opposite sex or objects that remind her of the incident. Sometimes the victim may cry, scream, or have shortness of breath when remembering the incident. In addition, it is also possible for the victim to get venereal disease if the perpetrator who committed sexual violence against her has often changed women to have sex with.

Research from the Adverse Childhood Study and other sources document the devastating impact of sexual abuse on children, dramatically increasing their risk of future health and developmental challenges. Child sexual abuse can jeopardize a child's physical health through unwanted/unplanned pregnancies, physical injuries, long-term chronic medical conditions, mental health leading to issues such as depression and PTSD. In addition, victims of child sexual abuse may experience social/behavioral consequences such as substance abuse, risky sexual behavior, and suicide (Neherta, Banowo & Mulyasari, 2023).

With the many impacts experienced by victims of sexual violence, it is necessary to reconsider or re-analyze the laws governing how the penalties given to perpetrators in order to provide maximum deterrent effect, not excluding the perpetrators of minors. Minutes of Investigation (BAP) of the crime of sexual violence, Police Report Number: LP/B/1526/X/2023/SPKT/POLRESTABES, dated 12 October 2022. It was stated that the modus operandi of the child perpetrator was to threaten the victim with a sharp iron so that the victim finally wanted to be molested by the perpetrators, it should be noted that the perpetrator was a child under the perpetrator and the victim was both male and underage. The impact of the incident experienced by the victim who was molested and sodomized three times left the victim traumatized and unwilling to go to school. Even the Regional Technical Implementation Unit for the Protection of Women and Children or abbreviated as UPTD PPA Bandung conducted a psychological examination of the victim at her home. From the information obtained, although the case finally carried out the application of restorative justice with a mutual agreement. The victim is still being intensively examined by the UPTD PPA because the results of the counsellor's examination still do not show good psychological health development.

## CONCLUSION

The application of restorative justice for children in conflict with the law is not appropriate when applied in sexual violence crimes, because sexual violence crimes even though the perpetrators are minors, the impact caused by the actions of minor perpetrators is the same as that of adult perpetrators. As it is known that the essence of restorative justice is recovery or return to the original state, but the losses experienced by victims in sexual violence crimes can never be restored to their original state. In addition, the application of restorative justice is not allowed in cases of sexual violence crimes because the legal system adopted by Indonesia is currently a *Civil Law* system that places the constitution at the highest level. As a result of the application of restorative justice by the police in accordance with the mandate of Police Regulation No. 8 of 2021 concerning the handling of criminal offences based on restorative justice, there is no deterrent effect that makes

minor perpetrators underestimate the applicable regulations, as if the legal process will not run as long as the family of the minor perpetrator and the victim can reach a mutual agreement, without considering the impact and harm caused to the victim. There are many factors that encourage the occurrence of criminal acts of sexual violence committed by minors, which can be broadly divided into 2, namely internal factors (age, gender, and intelligence) and external factors (education, family, economy). Another factor that is now a concern is the development of increasingly sophisticated technology so that it is possible for adult content to be uploaded by minor perpetrators. There are many impacts on victims of sexual violence, and these impacts cannot be replaced with materials and are contrary to the nature of restorative justice which is the restoration of victims to their previous state. These impacts are physical impacts, such as external injuries or bruises, psychological impacts, such as depression, antisocial behavior, and deep inner trauma resulting in suicide, sexually transmitted diseases or STDs, unplanned pregnancy.

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