

## RESTORATIVE JUSTICE FOR CHILDREN OF CYBER-PORN OFFENDERS

Patricia Sina Iwi<sup>1\*</sup>, Wiwin Yulianingsih<sup>2</sup>

Faculty of Law, Universitas Pembangunan Nasional Veteran, Surabaya, Indonesia  
pettyiwi660@gmail.com<sup>1\*</sup>, wiwinyulianingsih@gmail.com<sup>2</sup>

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### Abstract

This study aims at finding out and analyzing the implementation of Restorative Justice for children of Cyber-porn offenders in the Sikka Regency Resort Police as well as to find out the obstacles and efforts in the implementation of Restorative Justice for children of Cyber-porn offenders. The type of this research is a type of empirical legal research that is descriptive and analytical. The type of data used in this study is peripheral data obtained through interviews with members of the Police Resort in Sikka district while secondary data uses primary legal materials, namely: Police regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice, Law Number 11 of 2008 concerning Information and Electronic Transactions, Law Number 44 of 2008 concerning Pornography, Law Number 23 of 2002 concerning Child Protection and Law Number 11 of 012 concerning the Juvenile Justice System and for secondary legal materials and tertiary legal materials to support primary legal materials. Data collection is carried out by means of interviews and literature/documents. The technique used in this study uses qualitative analysis techniques. Cyber-porn crimes involving children, both perpetrators and victims in the community of Sikka Regency are still considered a disgrace so there are still many who do not want to report it to the police. In addition, investigators in implementing Restorative Justice are guided by Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice, but in fact there are still many investigators who do not understand and master the application of Restorative Justice. Obstacles and efforts in the implementation of Restorative Justice for children of Cyber-porn offenders, especially in the community and Sikka Regency Resort Police officers.

**Keywords:** *Child Offenders, Cyber-porn, Restorative Justice*

## INTRODUCTION

Nowadays, the civilization of human life is undergoing very rapid changes and developments. Where we have entered the modern era which is marked by developments in the fields of science, technology, politics, modern art, and culture. Various aspects have been equipped with social media platforms, such as Facebook, Twitter, Telegram, Instagram, WhatsApp, TikTok, YouTube and others. Social media of course disseminates information and events that have occurred very quickly and easily. The existence of social media has made it possible for users to communicate with other users even though they are far apart but as if they are in the same location. There are many conveniences in receiving messages and information due to the presence of social media. The development of the use of social media such as electronic media along with the passage of time is growing rapidly. The use of media, information technology, and communication that can change attitudes and attitudes...

The internet resulted in the emergence of Cyberspace as a space that exists when exploring the world of interactive global information. The information age is characterized by very high information accessibility. Cyberspace displays reality or reality, but not real reality as it can be seen, but virtual reality, virtual world, a world that has no limits. Cyberspace is a new human environment. It consists of people from various countries, cultures, languages, ages and occupations, as long as the computer network is connected through telecommunication infrastructure that disseminates information through the process and is transmitted digitally

The ease of accessing the Internet has a positive and negative impact due to the absence of restrictions, so that with this convenience internet service users not only take advantage of the positives obtained but they can also use the internet as a new means of crime for certain individuals. The new crime is known as Cybercrime (Raharjo, 2006:9). Cybercrime has many types that often occur in society, one of which is Cybercrime in the field of morality, namely the crime of pornography or Cyber-porn.

Cyber-porn can be done individually or in groups. One example of what individuals do is to distribute pornographic photos or videos of lovers or ex-lovers for public consumption. The dissemination of these photos or videos is usually done to blackmail the victim into giving a certain amount of money to the perpetrator.

In general, this is done on a consensual basis, and is done to vent the desires of each individual by mutual consent. This is already like a trend for some teenagers. Many teenage girls who do pornographic photos or pornographic videos then send them to their boyfriends. This is an activity of giving and receiving, but most women who give are forced to do so for the satisfaction of their own partner, because if they are not obeyed, they will be threatened with abandonment. But from a men's point of view, it is not only a means for men to achieve sexual satisfaction but to increase trust between them.

Cyber-porn cases also occurred in Sikka Regency itself, which is quite high. Based on news uploaded on the GlobalFlores.com media on Thursday, March 9, 2023, said the Leader of the Flores Volunteer Team for Humanity (Truck F), Sr. Fransiska Imakulata S.Sps, who is familiarly called Sr. Ika, who revealed the area of violence against women and children in 5 districts in Flores and dominated by Sikka Regency. The scene of violence against women and children for the Sikka Regency area reached 97 victims spread across Paga, Mego, Lela, Bola, Talibura, Waigete, Kewapante, Nelle, Nita, Alok, West Alok, East Alok, Koting, Kangae, Hewokliang, Doreng, Mapitara and Magepanda Districts. Cyber-porn cases also occurred in Sikka Regency itself, which is quite high. Based on news uploaded on the Global Flores.com media on Thursday, March 9, 2023, said the Leader of the Flores Volunteer Team for Humanity (Truck F), Sr. Fransiska Imakulata S.Sps, who is familiarly called Sr. Ika, who revealed the area of violence against women and children in 5 districts in Flores and dominated by Sikka Regency. The scene of violence against women and children for the Sikka Regency area reached 97 victims spread across Paga, Mego, Lela, Bola, Talibura, Waigete, Kewapante, Nelle, Nita, Alok, West Alok, East Alok, Koting, Kangae, Hewokliang, Doreng, Mapitara and Magepanda Districts. Cyber-porn cases also occurred in Sikka Regency itself, which is quite high.

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Motives, modes, facts, trends and obstacles in handling Ika continued include, economic motives, romance, and revenge. The modes used by the perpetrators in carrying out crimes include dating with

the lure of getting married, friendships, inviting players to play games and watch together, foster parents and being lured by large salaries. The fact of violence in 2022 that occurred, namely the dimension of violence against women and children occurred in two domains, namely the personal realm and the community realm.

According to Ika, there are various forms of sexual violence that occur, including incest rape, physical sexual harassment, sexual exploitation, forced pregnancy, children trapped in online prostitution and electronic and cyber-based violence. Ika also admitted that the victim's right to obtain legal treatment and certainty is often constrained by problems, the lack of perspective of law enforcement officials who side with victims of violence, the reluctance to seek legal breakthroughs in favor of victims, the lack of use of the Sexual Violence Crime Law, and the difficulty of presenting experts. This is also strengthened by case data regarding Cyber-porn in Resort Police of Sikka in 2022.

**Tabel 1.** Case data on Cyber-porn in Resort Police of Sikka in 2021-2022

No	Year	Total	Revocation of Report	Restorative Justice Settlement
1	2021	6	4	2
2	2022	5	2	3

Source : Bintara Unit (Banit) Satreskrim Sikka Police Resort, 2023)

From the table above, it illustrated that every year there always be a case of Cyber-porn in Sikka Regency, especially among teenagers. If it is associated with the appointment of the Leader of the Flores Volunteer Team for Humanity (Truck F), Sr. Fransiska Imakulata S.Sps, there is a difference obtained. This is because most victims and victims' families choose not to report it to the police station because it is considered a disgrace so they choose to settle it familiarly. Based on an interview with Briptu Cyprianus Vidiyanto Taurus Putra who serves as the Banit Satreskrim of the Sikka Police, on April 27, 2023 at 11:00 WIB, He explained that the victims and their families chose to revoke their reports for various reasons. And for those who continue to report to the police, the solution that is often taken by victims and victims' families is Restorative Justice. So until now, no one has continued it to court.

Restorative Justice is a form of approach to resolving criminal cases involving the perpetrator, the victim, the victim's family or the perpetrator, and other related parties to jointly seek a fair settlement with the aim of restoring the situation to the way it was, and not for revenge. (Herlina, 2004:19). The implementation of Restorative Justice is usually through mediation that aims to create or produce an agreement on a fair solution to the problem for the perpetrator and the victim. In this mediation, the victim and the perpetrator can convey what they want, such as compensation to the victim, peace or other agreements. Settlement using Restorative Justice prioritizes the occurrence of an agreement between the litigants and future interests. The use of restorative justice in a number of ways, including compensating the victim, reestablishing harmony between the victim and the offender, conducting social work, or coming to other agreements that help mend the victim-offender relationship. These rules are particularly applicable to drug cases, juvenile cases, and criminal crimes. These rules give the court a starting point and direction when using the restorative justice method to settle criminal cases. Achieving holistic justice requires considering the interests of victims, offenders, and society at large (Safitri & Wahyudi, 2021). In legislation No. 11 of 2008 concerning Electronic Information regulates this as positive legislation. 2011 transactions, which were modified by Law No. 19 of 2016 regarding modifications to Law No.11 of 2008 pertaining to Electronic Transactions and Information, published in the State Gazette of Number 251 and Additional State Gazette Number of the Republic of Indonesia in 2016 (Barkatullah, 2019) 5952. Regarding the freedom of opinion and speech via electronic media, there has been some dispute surrounding the implementation of the Electronic Information and Transaction Law (UU ITE). Some contents that the ITE Law has a number of clauses that might be in conflict with this right, raising worries that the community may suffer as a result. (Maulana, 2023)

This criminal act of sexual violence is a deviant behavior and violates the norms in Indonesia. Indonesia itself has its own provisions related to pornographic activities or actions, be it in Law Number 44 of 2008 concerning Pornography, Law Number 19 of 2016 jo Law Number 11 of 2008 concerning Information and Electronic Transactions. The settlement of cases of sexual violence involving children is regulated in Law Number 11 of 2012 concerning the Child Justice System and Law Number 23 of 2002 concerning Child Protection.

What is then interesting to study is considering that there are regulations that have been made to resolve criminal cases involving children as perpetrators, especially in cyber-pornography crimes, but many victims and victims' families do not choose to resolve them with applicable regulations but choose to solve their problems familiarly or through Restorative Justice?

## RESEARCH METHOD

The use of empirical research methods in this study is the result of data collection and information through field studies at the Sikka Regency Resort Police which is the focus and object of the research as well as from the scientific works of experts and books in completing the data needed.

The data used in this legal research is data sourced directly from the relevant community. The data sources contained in this legal research consists of primary, secondary and tertiary data. Primary data was obtained from the field by conducting interviews and case studies with related parties. Secondary data is collected from existing sources. The data sources in the secondary data in this study use the following materials; 1) Primary Legal Materials are authoritative laws, meaning that they have authority, namely the results of actions or activities carried out by institutions authorized for it (Fajar & Achmad, 2017). The primary legal materials in this study are in the form of laws and regulations, namely: a) Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE) b) Law Number 44 of 2008 concerning Pornography c) Law Number 23 of 2002 concerning

Child Protection d) Law Number 11 of 2012 concerning the Juvenile Justice System e) Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. 2) Secondary Legal Materials Secondary legal materials are documents or legal materials that provide an explanation of primary legal materials. Secondary legal materials can be in the form of publications on law which are documents consisting of textbooks or legal journals. Tertiary Legal Materials Tertiary legal materials, which are materials that provide additional explanations to primary and secondary legal materials, in the form of research results of experts, scientific works, and scientific books and so on. Tertiary Law Materials consist of legal dictionaries, Indonesian dictionaries, encyclopedias and so on.

In data collection, this research used in the form of observation, interviews and documentation. The data analysis method used is a qualitative method. To obtain the data the author conducted research at the Sikka Regency Resort Police, East Nusa Tenggara. The duration of this research is 6 (six) months, starting from March 2023 to August 2023.

## RESULTS AND DISCUSSION

### Restorative Justice Mechanism for Children of Cyber-Porn Perpetrators

Cyber-porn is a case that is always interesting to discuss, especially in Indonesia itself, the Cyber-porn case is included in the prohibited pornography case so that the perpetrator can get sanctions if proven to have committed. (Widianto & Pratama, 2021:92). Most Cyber-porn perpetrators who are met in the community and reported to the police are someone who is an adult where the victims are mostly children of age because children are very vulnerable to being manipulated by their mindset. Based on the law on child protection, those who are categorized as children are those up to 18 years old who are still in the womb. (Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection). Children who become perpetrators are rarely reported to the police station by the community, considered not able to understand what has been done, especially when seen in the family environment of children as perpetrators are often present from a family environment that is not harmonious so that they do not get an idea of how to behave well and correctly. (Diananda, 2018:112). In addition, children as perpetrators are considered to still have a long future so it is very unfortunate if they have to go to prison and cyber-porn cases of children as perpetrators are often considered juvenile delinquency and cases like this are still considered a very embarrassing disgrace for the victim's family who are also children so that the victim's family does not report to the police. This is in line with what was conveyed by the Minister of Social Affairs and the Head of Criminal Investigation where based on reports, statistics in the form of case findings and child pornography content do not reflect the actual number of cases that occur in Indonesia.

However, there are also families of victims who are brave and do not consider the case that befell the victim as a disgrace and want to take him to the police station so as to give a deterrent effect to the perpetrator even though the perpetrator is a child who is still in school. For this reason, the middle way is usually chosen to overcome the problem of Cyber-porn by restoring the victim's good name without having to imprison the perpetrator but providing a deterrent effect for the perpetrator is the Restorative Justice method. Restorative Justice is an alternative to criminal punishment to prevent crime and does not override the obligation to provide justice for victims of crime. (Rochaetia, et al, 2023:89). In the Sikka district itself, there is a Cyber-Porn case that was resolved with Restorative Justice, this is strengthened by case data regarding Cyber-Porn handled by the Sikka Police for the last 3 years in 2021-2023.

**Tabel 2.** Case data on Cyber-porn in Resort Police of Sikka Regency in 2021-2023

NO	Year	Total	REVOCATION OF REPORT	RESTORATIVE JUSTICE SETTLEMENT
1	2021	6	4	2
2	2022	5	2	3
3	2023	2	-	2

Source: Bintara Unit (Banit) Satreskrim Police Sikka Resort

The table II above explained that from 2021 to 2023 there were several Cyber-porn cases where in 2021 there were 6 cases reported, in 2022 there were 5 cases reported and finally in 2023 there were 2 cases reported by the victim's family. The number of reports is very small, but it does not mean that Cyber-porn cases are very few in Sikka district, because usually the perpetrator will threaten the victim to spread more photos or indecent videos of the victim. Based on table II above of Cyber-porn cases in Sikka Regency, it can be seen that in 2021 out of 6 cases were withdrawn 4 cases, in 2022 out of 5 cases were withdrawn 2 cases and in 2023 there were 2 cases but not withdrawn. However, there are cases that are not withdrawn and continued to Restorative Justice. In 2021, there were 2 cases that were continued until Restorative Justice, in 2022, there were 3 cases, and in 2024 there were 2 cases. The victim and the victim's family feel that the best way to provide a deterrent effect for the perpetrator but also protect the perpetrator as a child but still provide the best justice for the victim is to continue the report to the Restorative Justice stage. The Restorative Justice mechanism itself is a form of dispute resolution based on restorative justice based on consensus deliberation where the parties are asked to compromise to reach an agreement. Every individual is asked to yield and put the interests of the community above personal interests in order to maintain mutual harmony. The concept of deliberation has proven to be more effective in resolving disputes in society amid the failure of the role of the state and the courts in providing justice (Barnes, et. all, 2007:109).

Based on the experience and results of researcher observations during junior high school, high school, and even college, there are currently several research friends who have experienced Cyber-porn cases and videos of their intercourse spread on social media but have never been reported to the police station. The reason is that the victim and the victim's family are afraid of the stigma of society that says that the victim is a woman is not true, underestimated, degraded, and the problem is considered a very disgraceful.

Cyber-porn cases that occur in Sikka Regency are all cases of perpetrators and victims who have previously been in a romantic relationship, and when dating, the victim gives photos of her body parts to the perpetrator, so that when breaking up the photo or video as a material for blackmail so that the victim cannot stay away from the perpetrator (said Cyprianus Vidiyanto Taurus Putra, 2024). This sometimes makes the victim and the victim's family decide to settle with a family case so that it is not uncommon even though the case was reported and then withdrawn. In addition, if you continue to report to the police, it is considered to only have a negative impact on the victim in the future because his name is on the police record because of a Cyber-porn case.

The measure of justice is no longer based on the appropriate retribution from the victim to the perpetrator (either physically, psychologically, or punitively) but the painful act is cured by providing support to the victim and requiring the perpetrator to be responsible with the help of the family and the community if needed. In addition, there are several other advantages in implementing Restorative Justice (Dewi & Syukur, 2011:5), namely: 1. Restorative justice focuses on justice for victims according to their wishes and personal interests, not the state that decides. 2. Offer redress for all parties involved. 3. Making the perpetrator responsible for the crime he committed. From some of the advantages above, there are many other benefits obtained by both parties, both victims and perpetrators, to achieve justice that is as fair as possible and it is hoped that disputes will not arise.

The Police in Sikka Regency have a variety of options for resolving cases that occur in the community itself, but if the case involves children, both children as perpetrators and children as victims, the Police in Sikka Regency will prioritize resolving the case using Restorative Justice. Because the Police are still thinking about the effects that will arise in the future from the children involved in the case. This was confirmed by the Women and Children Protection office or PPA, Mrs. Gusti Ayu Mirayandi on Wednesday, May 22, 2024, at 10:28 WITA. In implementing Restorative Justice, he said that the Police in Sikka Regency are based on the National Police Regulation of the Republic of

Indonesia Number 8 of 2021, especially in Articles 11 to 14 concerning Procedures for Handling Minor Crimes. In this case, Cyber-Porn itself is a minor criminal act (said Mirayandi, 2024). The procedure for the flow of implementing restorative justice in the Sikka Regency Resort Police for people who want to resolve cases using Restorative Justice is as follows:



**Figure 1.** Procedures for resolving Restorative Justice in the Sikka Regency Resort Police (Source : Power Point from Kaur Bin Ops (KBO) Satreskrim of the Sikka Regency Police Resort (Polres), 2024)

For the beginning of the process of resolving minor crimes, the complainant makes a complaint to members of the National Police who carry out the function of community development and members of the National Police who carry out the function of SAMAPTA of the National Police by bringing a written application letter consisting of a peace statement and evidence that the restoration of the victim's rights has been made by the victim, the perpetrator, the victim's family, the perpetrator's family or related parties that have been mutually agreed. The application letter will then be seen whether there is an element of suspected criminal offense or not. If there is no element of suspected criminal acts, the report cannot be processed and returned. But if there is an element of suspected criminal acts of eating, the report will be accepted and processed.

The handling of criminal acts based on restorative justice itself must meet general requirements which include material and formal requirements, as well as special requirements. The material requirements that must be met in the settlement of cases with restorative justice include: 1)

- Does not cause unrest and/or rejection from the community
- 2) Does not have the impact of social conflict
- 3) Does not have the potential to divide the nation
- 4) Does not have the potential to divide the nation
- 4) Is not radicalism and separatism
- 5) Is not a perpetrator of a repetition of a criminal act based on a court decision
- 6) Is not a criminal act of terrorism, a criminal act against state security, a criminal act of corruption and a criminal act against human life. (Indonesian Police Regulation Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice)

Meanwhile, the formal requirements that must be met include peace from both parties, except for drug crimes. The formal requirements consist of: 1) Letter of request for peace between both parties (victim and perpetrator) 2) Statement of peace and dispute resolution of the parties to the case (victim, and victim's family, perpetrator and family of the perpetrator and representatives of community leaders) known by the Investigator 3) Minutes of additional examination of the litigants after the settlement of the case through restorative justice 4) Recommendation of the title of the special case that approves

restorative justice settlement 5) The perpetrator does not object and is carried out voluntarily for accountability and compensation 6) All criminal acts can be committed by Restorative Justice against general crimes that do not cause human casualties. (Indonesian Police Regulation Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice)

If the material and formal requirements can be fulfilled, then the termination of the investigation can be carried out, of course, the termination of the investigation or investigation is carried out through the mechanism of a special case title, and the reason for the termination of the investigation is for the sake of law. (Indonesian Police Regulation Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice)

### **Procedures for the Application of Restorative Justice to Cyber-porn Perpetrators**

(Indonesian Police Regulation Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice.):

1. After receiving the peace request of both parties (victim and perpetrator) signed on the seal, an administrative study of the formal requirements for case settlement through restorative justice is carried out 2. An application for peace after the formal requirements are met is submitted to the investigating supervisor for approval 3. After the application is approved by the investigating superior (Kabereskrim or Kapolda or Police Chief), then the time for signing the peace statement 4 is determined. Implementation of the conference that results in an agreement signed by all parties involved. 5. Make an official memorandum to the investigating supervisor or Kasatker regarding the request to carry out a special case title for the purpose of terminating the case 6. Carry out special case titles with victim participants, victims' families, perpetrators, perpetrators' families, representatives of community leaders appointed by investigators. Investigators who handle and represent the functions of internal supervisors and legal functions and elements of government when necessary 7. Compile administrative completeness and special case title documents as well as report on the results of case titles 8. Issuing an Order for Suspension of Investigation or Investigation and a Decree of Termination of Investigation or Investigation on the grounds of Restorative Justice. 9. For cases at the investigation stage, the investigator shall order the Investigation Termination Order and the Investigation Termination Decree signed by: a) the Director of Criminal Investigation at the level of the National Police Headquarters b) The Director of Criminal Investigation at the level of the Regional Police c) The Chief of Police, at the level of the Police and the Regional Police 10. For cases at the investigation stage, the investigator ordered the Investigation Termination Order and Investigation Termination Decree, which were signed by: a) the Director of Criminal Investigation at the level of the National Police Headquarters b) the Director of Criminal Investigation at the level of the Regional Police c) the Chief of Police at the level of the Police and the 11th Regional Police. Recording in the B-19 register book as a case of restorative justice is counted as a case settlement.

The stages of implementing Restorative Justice above can run because of the agreement of both sides of the family, if both parties agree to use Restorative Justice, then it can be implemented.

The settlement of criminal cases inside and outside the court process that emphasizes the deliberation and direct participation of the perpetrator, victim and the community in the process of resolving criminal cases that restore the state to its original state (recovery) is Restorative Justice. Restorative Justice is one of the efforts made in resolving a criminal case that provides satisfactory results, both to the victim and to the perpetrator of the crime. The implementation of Restorative Justice is usually by meeting between the two parties, namely the victim and the perpetrator and conducting mediation with the aim of getting a settlement of the case that occurred.

The most common case using Restorative Justice is the case involving the child as the perpetrator of a criminal act. This aims to anticipate the bad stigma that arises when a child commits a criminal act or violates applicable legal rules, as well as rehabilitates and rebuilds the child. According to Romli Atmasasmita, a child who faces the law is any act or behavior of a child under the age of 18 years and unmarried which is a violation of applicable legal norms and can endanger the child's personal development. (Atmasasmita, 1983:40)

Restorative Justice can be used as a reference for Judges to resolve children's cases. The Beijing Rules or the United Nations Minimum Standards for the Juvenile Justice System provide maximum protection for the future of children because they contain the following principles:

1. The best interests of the child are priorities. 2. Criminal justice should be avoided as much as possible. 3. All forms of intervention are carried out as little as possible. 4. Police, Prosecutors, Judges and other law enforcement officials use policies as much as possible in handling children's cases. 5. Criminalization and punishment of children must be avoided unless there is serious damage to the child or others. 6. Legal aid must be provided immediately without cost. (Pradityi, 2016:1)

Basically, Restorative Justice involves 3 parties who have interests, namely the victim, the perpetrator, and the community or law enforcement officials in determining the settlement of children's cases. Through Restorative Justice, there is an effort to bring together victims and perpetrators with the aim of seeking recovery for victims. On the other hand, child offenders, even though they have the status of perpetrators, but children as perpetrators are protected in the Juvenile Justice System through Restorative Justice who have the right to be rehabilitated and even socialize the child offender, not by retaliation.

### **The Implementation of Restorative Justice for children of Cyber-porn Offenders**

Children are the future of a country, because they are the ones who will continue the state system, so it is important to provide good education for children. Good education can be seen from the ability to provide punishment that is transformative and constructive so that a child can learn from his experience. (Rinaldi, 2022:85). Learning can be done responsibly with what has been done, in this case the child as a perpetrator of Cyber-porn is followed by a report to Restorative Justice. Based on case data on Cyber-porn in Resort Police of Sikka in 2021-2023, the researcher analyzed that continuing reports to the stage of implementing Restorative Justice for children has increased where in 2021 and 2022 the victim's family and victim still decided to withdraw the report, but in 2023 no cases were withdrawn. (Based on the results of the interview with the Banit Satreskrim of the Sikka Regency Police Resort, Mr. Cyprianus Vidiyanto Taurus Putra, Banit Satreskrim, on July 9, 2024)

Reporting the perpetrator for editing other people's photos with the intention of harassing and degrading someone is included in the Cyber-Porn criminal case. Cyber-porn is a pornographic crime that uses social media to produce, edit, duplicate, broadcast, or disseminate. (Hermawan & Indawati, 2023:1880). Based on the Procedures for the Implementation of Restorative Justice, the Cyber-Porn case in Sikka Regency is considered a minor case, especially the perpetrator is a child, so it is included in a minor criminal act. In the Cyber-Porn case involving children, the Sikka Regency police always try to offer the case to be resolved through Restorative Justice. During these 3 years, namely 2021, 2022, and 2023, the victim's family wanted to carry out the RJ, although there were also those who decided to withdraw the report because they had solved the problem familiarly and did not need police assistance.

The implementation of Restorative Justice in Sikka Regency in protecting the identity of a child both as a perpetrator and as a victim is very well guarded, this can be seen from the very lack of information about the Cyber-Porn case provided by the authorities. Protecting the identity of the perpetrator and victim is a decision taken because the perpetrator and victim are still children, they have the right to get a good life in society without being judged. This is in accordance with Article 28B Paragraph (2) of the 1945 Constitution of the Republic of Indonesia, for survival, growth, and development and the right to protection from violence and discrimination. Of course, in protecting children's rights, not only the police are responsible and have obligations but also the State, Government, Regional Government, community, family and parents and guardians. This is regulated in a derivative of Article 28B Paragraph (2) of the Constitution of the Republic of Indonesia in 1945, namely Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. This child protection makes the lack of information provided and the inability of officers to provide official identity as police officers makes researchers try to find other ways to get data from one of the cases that occurred by approaching independently with the victim's family.

Based on the results of the interview with the family of the Cyber-porn victim on Monday, June 10, 2024, at 16:00 WITA, he explained that the problem began due to jealousy from the victim's ex-girlfriend because after breaking up the victim had a relationship with the perpetrator's younger classmate. The perpetrator had apologized and wanted to improve the relationship, but the victim refused and did not want to establish a relationship and only wanted to be friends with the perpetrator. For this reason, because he felt angry, the perpetrator decided to edit the perpetrator's photo of himself without clothes and upload it to social media such as a status on WhatsApp and also upload it on Facebook. In addition to uploading to social media, the perpetrator also deliberately sent edited photos



to several friends of the victim who were still in the same neighborhood as the victim and even to the victim's family who were still the same age.

Seeing photos that were sent deliberately and uploaded to social media made the victim's family feel embarrassed, especially since this problem can affect the victim psychologically. For this reason, the victim's family decided to discuss the problem with the family line and invited the victim to meet, but in a few days the perpetrator was difficult to find. For this reason, the victim's family decided to report this problem to the police station, namely the BINMAS section by bringing the existing evidence, so that the report was accepted and immediately processed. After the report was received, the police helped the family to meet with the perpetrator by trapping the perpetrator at school, of course, in cooperation with the school so that the perpetrator came to the teacher's room and met with the victim's family. The meeting continued at the perpetrator's boarding house because the perpetrator's boarding house was closest to the school while waiting for the presence of the perpetrator's parents who at that time lived not in the city so it took almost an hour to wait.

After the presence of the perpetrator's family, the police mediated to find a middle ground while the police also offered to resolve the case through the Restorative Justice route. At the mediation stage, the victim's family and the perpetrator discussed the problems that occurred and apologized and asked that the case be carried out peacefully and willing to follow the peaceful requirements given. Based on the results of mediation and mutual agreement, a peace agreement was finally found so that the police invited all parties involved to continue the settlement of the next case at the police station. At the police station, the victim and the perpetrator were assisted to make a statement/peace agreement between the two parties where the contents of the letter were submitted by the victim's family and approved by the perpetrator's family to return to fulfilling the victim's rights.

The peace request letter is then processed to be submitted to the investigator's superior for approval. After being approved, a meeting was held to produce an agreement signed by all parties involved in the case, both the victim, the victim's family, the perpetrator, and the perpetrator's family. After the signing, the case was not immediately dismissed, it was necessary to make an official memorandum to the investigating supervisor regarding the request to carry out a special case title to stop the case. Then the case was carried out with the victim, the victim's family, the perpetrator, the perpetrator's family and the head of the Neighborhood Unit, the investigator who handled it. After all administrative completeness and case title documents are completed, a warrant to stop the investigation and a decree to stop the investigation for restorative reasons are issued. All series of restorative justice are closed with a record in the register book as an administration and evidence.

The series of Restorative Justice Procedures based on the results of interviews conducted with one of the victims' families is in accordance with the guidelines for procedures for resolving Restorative Justice at the Sikka Regency Resort Police which is provided in the form of Power Points. Where at the Minor Crimes Level, it begins with handling by BINMAS & SAMAPTA then if in the negotiation process peace is agreed, it is directed to make an application letter in the form of a peace letter proof of restoration of rights. These processes are well accompanied by the police, facilitated in the mediation process and well reported the results of the mediation until the final stage of recording the register book. This shows that both adults and children as actors in the procedures for resolving restorative justice in the Sikka Regency Resort Police are the same, there is no difference in the implementation procedures.

In carrying out the procedures for implementing Restorative Justice, the Sikka Regency Resort Police carried out as well and as soon as possible considering that the perpetrator and victim were still in school so that the Restorative Justice process was quickly resolved. Apart from the Sikka Regency police who are quick to respond in resolving the case, but also because of the cooperation between the perpetrator's family and the victim's family who both want the problem to be resolved quickly so that it does not spread in the community. In one of the special requirements for the implementation of Restorative Justice of the Sikka Regency Police related to crimes on social media, "the perpetrator conveyed an apology through a video uploaded on social media accompanied by a request to delete content that had spread", was not implemented. This is because making an apology in the form of a video and uploaded to social media is considered by the police to violate children's rights because it can cause the child's psychology to be disturbed even though he is the perpetrator, besides that it also

has a negative impact on the victim because the case is increasingly widespread and increasingly known by many people.

For this reason, the police approached the school to jointly provide education to students (15-17 of age) at the victim's school and the perpetrator that distributing pornographic photos, either true or edited, is a crime. This crime can be criminalized and there is a law that overshadows it, even though it is still a child. Not only editing and also uploading to social media, but the person who disseminates it can also be subject to criminal sanctions so that problems that have spread on social media are expected to be solved properly and also have an effect not only on the perpetrator but also on all other children. In addition, education was provided about the crime of Cyber-porn and the impact that will be obtained if committing the crime, and victims were taught to dare to report if they get the same problem.

In Indonesian law itself, there are rules related to the crime of children under age, namely Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) mandates that a child perpetrator must receive treatment and handling differently from adult perpetrators. Children can be held accountable for criminal acts if they are 12 years old and not yet 18 years old (Law Number 11 of 2012 concerning the Juvenile Justice System).

However, unlike adults in handling children as perpetrators, children are not given punishments like adults but can be half of the criminal punishment of adults, and in handling children's cases, it is necessary to apply Restorative Justice because Indonesia itself has regulations to protect children's rights. Referring to the SPPA Law, there are two types of punishment that can be imposed on the perpetrator's child, namely: 1. Action: for criminal offenders under the age of 14. 2. Criminal: for criminal offenders who are 14 years old and older.

Based on the case of the problem above, where the perpetrator in the example of the above case is 16 years old where over the age of 14 years the perpetrator can be sentenced to a criminal penalty. (Law Number 11 of 2012 concerning the Juvenile Justice System). Based on Article 71 paragraph (1) of the SPPA Law, the following are the main types of crimes for children, namely; warning crimes; criminal offenses with the following conditions: coaching outside the supervisory community service institution; job training; construction within the institution; and prisons. (Law Number 11 of 2012 concerning the Juvenile Justice System). The crime committed certainly needs an investigator, where the function of the investigator as a mediator must also be carried out by an investigator who has indeed followed and graduated as a mediator. In the case of a case resolved through penal mediation, for example, in this penal mediation, reconciliation and payment of compensation to the victim are held. If this mediation reaches an agreement, the results can be used as a reason to remove criminal penalties for criminal offenders.

The role of the investigating police or investigators has a function as a mediator in the application of restorative justice. The way it works is in accordance with the Restorative Justice models that have been known so far, such as Victim Offender Mediation or better known as VOM (Marlina, 2009:181).

This form is a form of Restorative Justice Approach where a forum is created that encourages a meeting between the perpetrator and the victim assisted by a mediator as a coordinator and facilitator in the meeting. This form is designed to find the needs that are the priority of the victim, especially the need to be heard, the desires regarding the form of responsibility of the perpetrator, the need for treatment or assistance for the victim, the desire of the victim to be heard by the perpetrator on the impact of the crime on both parties and discuss the handling, efforts to improve the impact suffered by both (Zulfa, 2011:90-92). Mediators at this stage can be carried out by judges or mediators from outside the court who have been certified and trained. (Laksana, 2017:62).

The mediation methods that can be carried out in the application of Restorative Justice are:

1. Victim Offender Mediation (VOM)  
Victim Offender Mediation (VOM) is a Mediation Forum between perpetrators and victims, which is a forum that encourages meetings between perpetrators and victims assisted by mediators as coordinators and facilitators in the meeting. (Marlina, 2009:181).
2. Family Group Conferencing (FGC)  
Family Group Conferencing (FGC) is the same forum as VOM, but in this form there is a difference that the involvement of settlement does not only involve the perpetrator and the direct

victim, but also indirect victims such as the victim's exit or close friends as well as the perpetrator's family and close friends. The reason for the involvement of these parties is because they may be affected either directly or indirectly by the criminal act that occurred or they have a high concern and interest in the result of deliberation and they can also participate in seeking the success of the process and the final goal. (Marlina, 2009:188)

3. Circles

Circles is a mediation process whose involvement is wider than the previous two forms, namely a forum where not only victims, perpetrators, families or mediators but also community members who feel interested in the case (Marlina, 2009:192).

4. Reparative Board or Youth Panel

Reparative Board or Youth Panel is the mediation process whose remedy is the most extensive compared to the previous three forms of mediation by involving the perpetrator, victim, community, mediator and also judges, prosecutors and defenders jointly formulating the appropriate form of sanctions for the perpetrator and compensation for the victim or the community. (Marlina, 2009:194)

In implementing the mechanism of the process of implementing Restorative Justice requires a desire to continue to provide protection for child offenders. However, because the Restorative process requires a confession of guilt first. After the guilty plea from the perpetrator of the criminal act, the investigator must also look at the motivation of the perpetrator of the child crime, whether the child is basically evil, and has previously committed acts that harm others, or with such circumstances that there is compulsion to commit a child crime. In addition to the motives, investigators must look at the impact of the crimes committed by children, as well as distinguish between cases of child crimes that must be brought to court, and which cases of child crimes should not be brought to court.

If a case committed by a minor applies Restorative Justice, it can indirectly reduce the number of children detained in detention centers or correctional institutions, and reduce the number of cases that enter the court, reduce the number of inmates in the institution, and reduce the state budget. But if both the victim and the perpetrator of the crime in this case are included in minor crimes committed by minors, then they are put into a correctional institution have no use because they only have a bad impact on the child himself.

### **Obstacles in the Implementation of Restorative Justice for Children of Cyber-Porn Perpetrators**

Based on the classification of crimes related to the internet or Cyber-Crime, Cyber-Porn is included in the category of the computer as the tool of a conventional crime. If the internet is only a tool, then the crime is related to the content or content displayed by the internet. (Raharjo, 2007:33-46). The law enforcement process against Cyber-Porn is certainly not an easy thing, especially since the crime involves children as criminal offenders. Applying the law to children as perpetrators of criminal acts is one thing that is not young, because children who are minors cannot be convicted or imprisoned, besides that there are many things that need to be considered in imposing punishment for the child itself. Therefore, the application of Restorative Justice for children as perpetrators of criminal acts is the right choice in resolving criminal cases involving children. But in applying Restorative Justice in cases involving children, of course, it is also inseparable from obstacles or obstacles in its implementation. Obstacles to the implementation of Restorative Justice carried out by the Police include:

**1. Implementation of Restorative Justice Regulations by the Police**

The role of law enforcement officials, especially the National Police, in criminal law enforcement is essentially the functionalization of criminal law (Arief, 1998:2), where functionalization plays an important role in law enforcement. Barwa Nawawi Arief stated that the functionalization of criminal law can function, operate or work and be realized in real life. The functionalization of criminal law is synonymous with the operationalization or concretization of criminal law, which is essentially the same as law enforcement. (Arief, 1994:2). The functionalization of criminal law can be interpreted as an effort to make criminal law function, operate or work and be realized in a real way. The functionalization of criminal law is synonymous with the operationalization or concretization of criminal law, which is essentially the same as law enforcement. There are three stages of this functionalization, namely the

formulation policy stage as a stage of criminal law formulation by the legislator. The applicative policy stage is the stage of the application of criminal law by law enforcement, the administrative policy stage, which is the stage of implementation by law enforcement officials. (Arief, 1998:30)

The quality of human resources or human resources in police officers who handle cases of children facing the law is inadequate. Many police officers do not have much experience or knowledge so that, in carrying out Restorative Justice, there needs to be an improvement by providing training or further learning about the implementation of Restorative Justice can be carried out optimally (Yunus, 2013:243). Another obstacle is the low understanding of members of the National Police regarding the Restorative Justice system because not all investigators on duty have the same ability between one investigator and another, so that in assessing a problem, there are those who are indeed capable because they are supported by their experience, but many also assess a problem without taking into account the risks that will occur. So that there is a bigger problem because there is no understanding of all parties in understanding the implementation of restorative justice with the aim of recovery for perpetrators, victims, and the community, so that as a result, sometimes there are parties who intervene in the mediation process and inconsistencies in the implementation of regulations in the field.

The Police who handle children should meet the following requirements: 1) Have knowledge and skills proportionate to their profession. 2) Have intention, attention and dedication and understand the child's problems. 3) Have experience in understanding criminal cases committed by both children and children. (Mirayandi, 2024)

As a party that helps resolve the case, of course, it is necessary to have good abilities to carry out Restorative Justice and adequate science in resolving cases. In the settlement of cases at the Sikka district resort police, obstacles were found related to the ability of the police due to lack of experience because cases regarding Restorative Justice committed by children as perpetrators are very rare, so the inability to solve cases is also very lacking. In addition, Restorative Justice Cases regarding Cyberbullying, although many in Sikka Regency, are often considered disgraceful so that the number of cases handled, even though the perpetrators are adults, is a little small every year, so the experience of the police in charge of the Restorative Justice section who face Cyberbullying cases is still low. The work experience you have is much related to the quality of handling the cases you face because of the ability that continues to improve and the learning learned so that your skills can be improved.

Work experience is the duration of work done during work so that they are able to understand well the obligations and responsibilities in completing tasks so that they can be carried out properly (Saifudin & Hasanudin, 2022:78-85). So of course, the work experience of the Sikka Regency police plays a very important role as a factor in the success of Restorative Justice Organizers. In addition, Human Resources owned by the Sikka Regency Police also play an important role because most of the police officers on duty are still high school graduates and there are not many Bachelor graduates. The tasks given, sometimes outside of the duties of their division, make many police officers reluctant to continue their studies (Putra, 2024). So that the ability of human resources in the Sikka Regency police agency that is competent in carrying out Restorative Justice is still not optimal. The superiority of human resources can be seen from the scientific capacity they have in carrying out tasks, behavior when facing tasks, and also the ability to complete tasks. So that good resources can be said to improve the quality and ability of a person to work so that it produces good performance. (Ananda et al, 2019)

## 2. Social Media

In this day and age, accessing social is very easy to do, and has even been introduced indirectly by parents from a young age to children by providing YouTube views. In addition to providing spectacle, parents today record and upload videos of their children to social media so that children feel that playing social media is a natural and common thing to do. The Covid-19 case has a huge influence on the use of social media in all circles, especially to children, where it is mandatory to go to school online so that using electronic devices such as cellphones and laptops has been introduced from an early age. This has been going on until now where in schools such as elementary schools, where during exams are

required to bring cellphones and assignments that are collected by uploading through the school website so that parents finally decide to buy cellphones because of the needs of their children's schools.

This is one of the factors that ultimately results in access to social media use by children is very easy to do, especially the ignorance of parents in controlling children's social media use makes children able to access many things on social media. Parents who do not understand the use of social media by connecting their child's cellphone to their cellphone will not be able to supervise what sites appear on the child's social media, so that with such high curiosity and the absence of proper assistance, children can fall into pornographic sites.

Children who have been exposed to pornographic content will develop libido and the desire to try and practice what is already known which eventually results in cyber-porn cases. The Cyber-porn case that occurred in Sikka Regency where the child is the perpetrator is a case between two children who have previously been in a romantic relationship but because the relationship has ended and the hurt received by the perpetrator makes the perpetrator reckless to publish indecent content about the victim on social media. (Mirayandi, 2024). This is one of the obstacles in the implementation of Restorative Justice because it must also take into account the perpetrator as a child who must also be protected and think about his future as a child.

### **3. Lack of public knowledge about Restorative Justice**

Providing knowledge about Restorative Justice to the public is a responsibility carried out by the police because they know more about and carry out Restorative Justice to the perpetrators. However, in its implementation, the public does not understand Restorative Justice, and some do not even know what Restorative Justice is. This is because the culture of Indonesian society with a socio-cultural system, especially in the people of Sikka regency which is very pluralistic and various kinds of social stratification, many people who live in rural areas are different from the characteristics of urban communities, when talking about the laws that must be enforced will have a different perspective from each community. Based on the results of interviews with the victims' families, they did not understand what Restorative Justice was, what they understood was to overcome problems in a familial manner with the help of the police (victim family said). Therefore, it is necessary to socialize to the community equally.

Educating to schools about Restorative Justice has also never been carried out even to the wider community, the education provided is only in the form of preventing a criminal problem, not the process of committing a criminal act. The lack of knowledge about Restorative Justice makes the public not know that there is a good handling where the perpetrators and victims come together to find the best way with the assistance of the police. So this is the factor that makes the implementation of Restorative Justice an obstacle because of the absence of information obtained by the public from the police regarding Restorative Justice.

### **Efforts Made in the Implementation of Restorative Justice for Children of Cyber-Porn Crimes by the Sikka Regency Police**

The application of Restorative Justice in law enforcement in Indonesia is a form of law enforcement carried out by the police to the community. An understanding of Restorative Justice is needed so that it can carry out law enforcement, not only by using the interpretation of the Law as the only way to resolve a legal case, especially involving children as victims or perpetrators. Helping victims heal from the harm they have suffered as a result of their crime is the aim of restorative justice. The goal of implementing a restorative justice strategy is to create a more compassionate legal system that places an emphasis on rehabilitation, offers victims and offenders communication opportunities, and helps all parties reach mutually beneficial agreements. (Widodo, 2024:446). However, the application of Restorative Justice needs to be changed to enforce the law that is committed to the interests of the parties, both victims and perpetrators to get justice as fairly as possible so that on the day of an incident like this it will not happen again because it gets a thwart effect without having to go to prison. Based on the obstacles found in implementing Restorative Justice, efforts are needed to implement Restorative Justice so that it can solve problems for children who commit cyber-pornography crimes.

The following are the efforts made in implementing Restorative Justice in solving problems for children who commit Cyber-porn crimes:

1. Ensuring the law enforcement system by the Sikka Regency Resort Police in the implementation of Restorative Justice

Science is very influential in a person's understanding of their duties and responsibilities, so it is important to provide education in the form of training related to Restorative Justice to police members as a whole. The hope of providing training is that in carrying out the task of implementing Restorative Justice can run optimally and in accordance with existing procedures in accordance with the Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning the Application of Criminal Acts Based on Restorative Justice. Although some police officers have worked for a long time, it does not guarantee that the existing experience can optimize police duties without quality human resources through the improvement of human resources. In addition, improving human resources in the police related to Restorative Justice can be a success point of the implementation of sustainable Restorative Justice where police officers who have been well educated are able to teach juniors who have just joined so that the effective implementation of Restorative Justice continues to be sustainable (Nurramadhania, 2023:83-89).

2. Limiting and supervising social media in children

It is undeniable that the occurrence of deviant behavior towards children is also due to the role of parents and surroundings in child supervision. Parents are required to be smarter in using social media and electronics so that they can play an active role in supervising their children in the use of social media and using other electronic devices. The number of parents who do not understand or have the technology stutter seems to be liberating or not caring about what their children are doing, so that they are freer to use social media and access prohibited websites. Parents need to understand how to control and limit access to children's social media, where now every hand phone already has parental control. This is important for parents to understand the use of the application so that they can control and see what applications the child uses and how long the social media is used. One of them is by looking at tutorials on YouTube in detail about how to set up parental control services on children's phones and on parents' phones. Apart from the elderly, the government can also restrict or block pornographic websites that circulate without any age restrictions. The number of prohibited websites circulating without age restrictions needs to be eliminated so that it can prevent children from accessing prohibited sites that are not in accordance with the child's age. The role of the school in controlling children's use of social media is also important, where the school can provide education or socialization about the dangers and bad influences of using social media and provide activities that can affect children's growth and development without involving social media and gadgets.

3. Providing Education about Restorative Justice to the Community.

The police as supervisors who carry out Restorative Justice can educate the community in the form of providing an understanding of what Restorative Justice is, starting from the school level. In addition to knowing the science at school, general knowledge about law is also needed by school children, because they will someday after graduation will take part in the order of life in society. In addition, providing education about Restorative Justice to the community starting from the lowest level of Neighbor is also important to do because many people do not know what Restorative Justice is. From this ignorance, the police need to be given a correct understanding, and this is also part of building a good relationship between the community and the police so that people do not feel afraid to report their problems if something happens.

## CONCLUSION

Cyber-porn is a pornography crime. Cyber-porn can be done by individuals or groups. One of the ways individuals commit Cyber-porn crimes is by spreading someone's pornographic photos or videos to the public with certain intentions and purposes. This has happened very often in the community. Cyber-porn crimes are not only committed by adults, Cyber-porn perpetrators can also involve a child. Children can also be designated as perpetrators of a criminal act if proven to have committed it. In resolving a criminal case involving children, both children as victims and children as perpetrators of

restorative justice settlements are often suggested by the police. This is because it still takes into account the rights of children and thinks about the future of the child himself without interfering with the child's growth. Restorative Justice is an act of resolving cases outside the court which is carried out by mediation by involving the victim, the perpetrator, the victim's family, the perpetrator's family, community leaders and other related parties, namely in order to get justice for the victim and the perpetrator as fairly as possible. The implementation of Restorative Justice by the resort police of Sikka Regency is guided by the State Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice.

The lack of implementation of Restorative Justice in Sikka Regency occurs due to several obstacles, namely the quality of human resources or human resources in the police who handle cases of children facing the law is inadequate. Many police officers do not have much experience or knowledge so that in the implementation of Restorative Justice they are not professional, so there needs to be comprehensive special training or education for police members in the Sikka Regency. Another disadvantage is the easy access to social media without age restrictions, so that children can easily find the content that is not suitable for the child's age. In addition, there is also a lack of educational socialization delivered by the police about Restorative Justice to the public because the public does not know Restorative Justice so they do not choose Restorative Justice as one of the solutions to legal cases. From these weaknesses, it is necessary to make efforts to overcome them, namely by increasing human resources or human resources of the police force, increasing supervision by adults, especially parents to children, and the police must play an active role in providing education to the public regarding Restorative Justice through socialization.

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