

## Framework for Analysis of Criminal Acts Committed By Children Against Child Victims Based on Restorative Justice

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**Abstract.** *Children are the next generation of the nation who are vulnerable to becoming victims or perpetrators of sexual crimes due to lack of protection, supervision, and adequate moral education. Children as perpetrators of sexual abuse require a more humanistic legal approach through restorative justice in accordance with the principles of the Child Protection Law and the Child Criminal Justice System. The purpose of this study is to examine the regulation of criminal acts of sexual abuse by child perpetrators against child victims and to analyze the ideal regulation of criminal acts of sexual abuse by child perpetrators against child victims. The approach method used in compiling the thesis is normative legal research. Specifications in this study descriptive analysis. The theories used include the theory of legal certainty and the theory of restorative justice. The results of this study are (1) Regulation of criminal acts of child molestation against child victims in Indonesia has been regulated in the Criminal Code, the Child Protection Law, and the Child Protection and Child Protection Law, with the aim of providing protection for children both as victims and as perpetrators. Although child perpetrators of child molestation can be subject to criminal responsibility, the Indonesian legal system still requires an approach that upholds children's rights, including rehabilitation efforts through the child criminal justice system. However, Article 7 paragraph (2) of the Child Protection and Child Protection Law limits the application of diversion, so that child perpetrators in criminal acts of child molestation cannot be diverted, legal uncertainty in the principle of child protection. Therefore, although existing regulations have guaranteed legal protection, a review is needed to align the objectives of criminal punishment with the restorative justice approach for children. (2) The ideal regulation of criminal acts of child molestation against child victims in the future must be directed at a restorative justice-based approach that guarantees the protection of children's rights. Lessons from the English, German, and Dutch legal systems show that child punishment can be carried out in a humane manner by emphasizing rehabilitation. The juvenile criminal law system in Indonesia through the SPPA Law needs to be revised to provide space for settlement outside the courts, including for cases that carry a criminal sentence of more than seven years, such as molestation, which is currently excluded from diversion. In addition, the government also needs to reconstruct Article 140 paragraph (2) of the Criminal Procedure Code so that it becomes the legal basis for terminating prosecution with a restorative justice approach, to ensure that the principle of "the*

*best interests of the child" remains the main priority in the national criminal justice system..*

**Keywords:** *Child; Criminal; Molestation; Perpetrator.*

## 1. Introduction

After ratifying the convention on the rights of the child in 1990 through Presidential Decree number 36 of 1990, twelve years later, the Indonesian Government enacted a law on child protection. The law is Law number 23 of 2002 on Child Protection, the contents of which adopt and take many values from the Convention on the Rights of the Child. Since then, Indonesia has officially had laws and regulations that specifically regulate children's rights, which then also regulate the issue of commercial sexual exploitation of children. Law 23/2002 was changed twelve years later to Law 35/2014.<sup>1</sup> A child is a person who is not yet 18 (eighteen) years old, including a child who is still in the womb. The determination of the child's age limit refers to the provisions of the Convention on the Rights of the Child (CRC) which has been ratified by Indonesia through Presidential Decree No. 36 of 1990. According to the Convention on the Rights of the Child, a child is defined as any person under the age of 18, unless the law applicable to the child determines that adulthood is reached earlier.<sup>2</sup> Children's rights have been universally established through the UN General Assembly on November 20, 1959, by proclaiming the declaration of the rights of the child. With this declaration, it is hoped that all parties will recognize children's rights and encourage all efforts to fulfill them. There are ten principles of children's rights according to the declaration, namely:

1. Every child shall enjoy all the rights set forth in this Declaration without exception, without distinction or discrimination;
2. Every child shall enjoy special protection, shall be given opportunities and facilities by law and by other means, so that he or she may develop physically, mentally, morally, spiritually, and socially in a healthy and normal manner.
3. Every child from birth must have a name and national identity;
4. Every child should enjoy the benefits of social security;
5. Every child who is physically, mentally or socially disabled must be given special treatment, education and care according to his/her condition;
6. Every child for his full and balanced personal development needs love and understanding;
7. Every child shall receive education free of charge and on a compulsory basis;
8. Every child in any situation should receive first aid and protection;
9. Every child must be protected from all forms of neglect, violence and exploitation;

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<sup>1</sup>Rusmilawati Windari (2019), Penanggulangan Eksploitasi Seksual Komersial Anak (ESKA) Berdasarkan Global-Local Based Aproach (Glocalization), *Soumatra Law Review*, Vol. 2, No. 2, p. 293.

<sup>2</sup>United Nations Children Fund (2013), Convention on The Rights Of The Child, Resolusi PBB No. 44/25, 20 November 1989 dalam Nanandg Sambas, *Peradilan Pidana Anak di Indonesia and Instrumen Internasional Perlindungan Anak Serta Penerapannya*, Yogyakarta : Graha Ilmu, p. 5

10. Every child must be protected from all forms of discrimination based on race, religion and other forms.<sup>3</sup>

Crime is a problem for all nations and countries in the world. Along with the development of the era and civilization, there are more and more types of crime. Starting from the variety of modus operandi of crime, the increasing spread of crime and the increasingly diverse age and gender of both perpetrators and victims of crime including crimes of sexual harassment or molestation.<sup>4</sup> In general, anyone can be a victim of crime, but often women and children are the targets of criminals, especially crimes against morality which in this case also includes sexual abuse. Women and children are often victims of sexual abuse because they are considered not to have enough ability to fight back, so the perpetrators assume that women and children can be targets to channel their sexual desires. Sexual abuse, especially against children, can have a severe and long-lasting trauma for the victim which can then affect the unhealthy mental development of the child when they have to grow into adulthood.<sup>5</sup>

The psychological impact on children will give birth to prolonged trauma which will then give birth to unhealthy attitudes such as inferiority, excessive fear, disturbed child mental development and ultimately result in mental retardation. This is a bad memory for child victims of abuse. Cases of violence against children that occur in Indonesia as one indicator of the poor quality of protection for children, the existence of children who are considered not yet able to live independently of course this really needs adults as their protectors. It is hoped that every child is able to bear responsibility, this is expected so that children need to get the widest possible opportunity to grow and develop optimally both physically, mentally and socially and have good morals. So it is necessary to make protection efforts to realize the welfare of children by providing guarantees for the fulfillment of their rights and treatment without discrimination.<sup>6</sup> As someone who cannot yet be said to be able to distinguish between right and wrong, a child who has consumed pornographic content tends to have a curiosity to practice these negative things. Whereas in the provisions of Article 289 of the Criminal Code (KUHP) it states that "Anyone who with violence or threat of violence forces someone to do or allows obscene acts to be done to him, is punished for violating decency with a maximum imprisonment of nine years." Obscene acts as per Article 289 of the Criminal Code based on the explanation outlined in the explanation of the Criminal Code, R. Soesilo defines obscene acts as all acts that lead to morality (decency) or vile acts, all of which are

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<sup>3</sup>Dony Pribadi (2018), Perlindungan Terhadap Anak Berhadapan Dengan Hukum, *Jurnal Hukum Volgeist*, Vol. 3, No. 1, p. 15-27

<sup>4</sup>Hasriany Amin, Muamal Gadafi, and Jamaluddin Hos (2018), Perlindungan Anak Dari Ancaman Kekerasan Seksual (Sebuah Tinjauan Berdasarkan Nilai-Nilai Islam), *Al Munzir* Vol. 11, No. 1, p. 59-74

<sup>5</sup>Risna Sidabutar and Suhatrizal (2018), Perlindungan Hukum Terhadap Anak Yang Melakukan Tindak PidanaPencabulan Pada Putusan No.2/Pid.Sus/2014PN.Mdn, *Jurnal Ilmiah Penegakan Hukum*, Vol. 5, No. 2, p. 23

<sup>6</sup>Ony Rosifany (2020), Ketentuan Hukum Tindak PidanaPencabulan Terhadap Anak Dibawah Umur Menurut Unandg Unandg Perlindungan Anak, *Jurnal Legalitas*, Vol. 5, No. 2, p. 90-103

within the scope of sexual lust, for example: kissing, groping genitals, groping breasts and so on.<sup>7</sup>

In Law Number 23 of 2002 concerning Child Protection, it is regulated in Article 82 which reads: "Any person who intentionally commits violence or threats of violence, forces, commits trickery, a series of lies, or persuades a child to commit or allow indecent acts to be committed, shall be punished with a maximum imprisonment of 15 (fifteen) years and a minimum of 3 (three) years and a maximum fine of Rp. 300,000,000 (three hundred million) rupiah and a minimum of Rp. 60,000,000 (sixty million)." The substance regulated in Law No. 11 of 2012, among others, is regarding the placement of Children undergoing the judicial process can be placed in the Special Child Development Institution (LPKA). According to Wagianti Soetodjo<sup>8</sup>, the most fundamental substance in this Law is the explicit regulation regarding Restorative Justice and Diversion which is intended to avoid and distance Children from the judicial process so as to avoid stigmatization of Children who are in conflict with the law and it is hoped that Children can return to the social environment in a normal manner. Factors that cause a child to commit sexual violence include economic, cultural, family, education, environment, social, and technological sophistication. However, the role of the family is very influential in a child's mental education. Parents are obliged to care for, maintain, educate, and protect children in accordance with Article 26 of Law Number 23 of 2002 concerning Child Protection.<sup>9</sup> Lack of parental supervision and lack of education make children easily influenced by pressing circumstances so that they are involved in a crime. Therefore, Law Number 11 of 2012 concerning the Juvenile Justice System was created, which highly upholds the dignity of children. In the Juvenile Criminal Justice System Law, there are policies that uphold the welfare of children, including Diversion, which is in the investigation examination stage to the trial stage. However, Diversion cannot be applied to children as perpetrators of child molestation because the maximum sentence applied is 12 years in prison, exceeding the rules set as the basis for diversion, which is a maximum sentence of 7 years in prison. Therefore, a legal breakthrough is needed in the form of restorative justice which can be carried out by law enforcement, especially the prosecutor's office.

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<sup>7</sup>Muhamad Romdoni and Yasmirah Mandasari Saragih (2021), Pertanggungjawaban Tindak Pidana Pencabulan Terhadap Anak Yang Dilakukan Oleh Anak, *Jurnal Hukum Pidana & Kriminologi*, Vol. 2, No. 2, p. 64-76

<sup>8</sup>Wagianti Soetodjo (2008). *Hukum Pidana Anak*, Bandung : Refika Aditama, p. 5

<sup>9</sup>Rachmat Harun (2015), Analisis Yuridis Tentang Tindak Pidana Pencabulan Anak, *Lex Crimen*, Vol. IV, No. 4, p. 46-56

## 2. Research Methods

In the research conducted, the writing uses a normative legal approach. Normative research has an ultimate goal related to the purpose of the essence of law, through a review or new discovery of legal norms that should apply and those that should not apply. In this study, the researcher wants to review the criminal law on child molestation by child perpetrators against child victims based on restorative justice. This research model aims to examine the regulation of criminal acts of child molestation by child perpetrators against child victims based on restorative justice, legal theory or legal opinion which is then linked to the practice of implementing law in society, especially the problem of election process disputes and then analyze the data obtained from the research results.<sup>10</sup>

## 3. Results and Discussion

### 3.1. Regulation of Criminal Acts of Child Abuse Against Child Victims

Crime is a real problem that can happen to anyone at any time, with various forms that continue to develop along with the changing times and various underlying causal factors. This crime phenomenon arises from the dynamics of community life, both in rural and urban areas. One form of crime that is very disturbing today is the case of child molestation. Ironically, the perpetrators are not always strangers, but often come from the victim's closest environment, such as grandfathers, biological fathers or stepfathers, boyfriends, or even the victim's own peers.<sup>11</sup>

Indecent acts refer to any act that is contrary to the norms of decency or morality, whether committed against one's own body or the body of another person. This act includes a variety of behaviors that are considered morally indecent, including sexual intercourse that occurs outside of marriage. In other words, indecent acts are a general term for collecting various acts that violate the ethics of morality in society.<sup>12</sup>

Cases of sexual abuse are now a serious concern, especially because there are more and more cases of sexual abuse where the perpetrators are children. Children have unique characters, where they can act based on their own feelings, thoughts, and desires. However, the development of a child's personality is also greatly influenced by their surrounding environment. Therefore, every child should have a healthy and safe growth and development environment, free from various negative influences that can hinder or damage the process of forming their personality.<sup>13</sup>

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<sup>10</sup> Ronny Haniatjo Soemitro (1990), *Metode Penelitian Hukum and Jurumetri*. Jakarta : PT Ghalia Indonesia. p 97-98

<sup>11</sup> Rahmat Fauzi (2020), Upaya Penanggulangan Tindak Pidana Pencabulan Terhadap Anak di Kota Paandg, *Kertha Wicaksana: Sarana Komunikasi Dosen and Mahasiswa*, Vol. 14, No. 1, p. 1-7

<sup>12</sup> Muhammad Anwar (1982). *Hukum Pidana Bagian Khusus* (KUHP Buku II) Jilid 2. Bandung : Alumni, p. 12

<sup>13</sup> Febrina Annisa (2016), Penegakkan Hukum Terhadap Anak Yang Melakukan Tindak Pidana Pencabulan Dalam Konsep Restorative Justice, *ADIL: Jurnal Hukum*, Vol. 7, No. 2, p. 202-209



R. Soesilo provides an explanation of obscene acts, namely all acts that violate morality (decency) or vile acts, all of which are in the environment of sexual lust. Types of obscenity in the Criminal Code include:<sup>14</sup>

#### 1. Obscene acts with violence

The definition of violence is making someone faint or helpless, using physical strength or power as hard as possible illegally, for example hitting with hands or with all kinds of weapons, kicking, kicking and so on which causes the person affected by the violent act to feel pain. It is stated in Article 289 of the Criminal Code: Whoever with violence or with the threat of violence forces someone to do or allow him to do obscene acts, because the act is detrimental to morality, is subject to a maximum of nine years in prison. The threat of punishment in this article is a person who forces someone to do obscene acts or forces someone to allow himself to be treated obscenely, with violence or with the threat of violence.

The definition of indecent acts according to Article 289 of the Criminal Code is any act that violates morality, decency, or abominable acts, all of which are in the realm of sexual lust, kissing, groping the genitals, breasts, and so on. Sexual intercourse is also included in this definition, but in the Law it is stated itself, namely in Article 285 of the Criminal Code it can only be committed by a man against a woman, while rape for indecent acts Article 289 of the Criminal Code can also be committed by a woman against a man.

#### 2. Indecent acts with someone in a state of unconsciousness or helplessness

In Article 290 of the Criminal Code, it can be punished with imprisonment for a maximum of seven years. Whoever commits an indecent act with someone, while knowing that the person is unconscious or helpless. Fainting means loss of memory or not being aware of oneself, for example because of drinking datura poison or other drugs that cause loss of memory, the person who faints no longer knows what is happening to him. Helpless means having no strength or energy at all, so that he is unable to put up any resistance whatsoever, such as a person tied with ropes on his feet and hands, locked in a room, given an injection, so that the person becomes paralyzed, this helpless person can still know what is happening to him.

#### 3. Indecent acts with someone by means of enticement

Article 290 of the Criminal Code, the perpetrator is threatened with imprisonment for a maximum of seven years. Anyone who commits an indecent act with someone who is known or can reasonably be suspected, that the person is not yet fifteen years old or the age is not clear, that he is not yet suitable to be married, to commit or allow an indecent act to be committed to him. A person who persuades (influences with seduction) someone who is generally under fifteen years old to commit an indecent act.

#### 4. Obscene acts with someone by means of deception and power arising from social relations

Article 293 of the Criminal Code stipulates that: Whoever with a gift or with an agreement to give money or goods by misusing the power arising from association or by deceiving,

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<sup>14</sup>R. Soesilo (1996), *Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-komentarnya Lengkap Pasal demi Pasal*, Bogor : Politeia, p. 212

intentionally persuades a minor whose behavior is blameless, who he knows or can reasonably be suspected of being a minor, to commit an indecent act with him, or allows an indecent act to be committed on him, shall be punished with imprisonment for a maximum of five years. The method of persuasion is by using:

- a. A gift or agreement will provide money or goods;
- b. Power that arises from association;
- c. Deception.

The person who is seduced is not yet an adult and has no fault of behavior, meaning only regarding behavior in terms of sexuality, seducing a prostitute who is not yet an adult is not included in this article, because the prostitute has defective behavior in the sexual field. The agreement must lead to the giving of money or goods, agreements in other matters are not included in this. This crime is a complaint offense, the period for filing a complaint is nine months for people in the country and twelve months for people abroad, clearly this complaint must not be past the time limit set above, if it is late it means it has expired.<sup>15</sup>

Article 82 of Law No. 23 of 2002 concerning Child Protection, which stipulates that: anyone who intentionally commits violence or threats of violence, forces, commits trickery, a series of lies, or persuades a child to commit or allow indecent acts to be committed, shall be punished with imprisonment for a maximum of 15 years and a minimum of 3 years and a fine of a maximum of 300 million rupiah and a minimum of 60 million rupiah.

Hart Rossi defines sexual abuse as an act involving an adult as the perpetrator of the abuse, but abuse can also occur "when a child is used as an object of sexual gratification by another child under the age of 18 (eighteen) years who temporarily takes over the duties of a parent."<sup>16</sup> The imposition of criminal sanctions against perpetrators of sexual abuse does not only apply to adults, but can also be imposed on children who are proven to have committed a criminal act of sexual abuse. The definition of a child itself is stated in the Republic of Indonesia Law Number 35 of 2014 concerning Child Protection. Based on Article 1 number 1 of the law, a child is defined as an individual who has not reached the age of 18 years, including children who are still in the womb.<sup>17</sup>

According to R. Soesilo, what is meant by obscene acts are all acts that violate morality/decency or vile acts that are all related to sexual lust, for example kissing, groping genitals, groping breasts (intercourse is also included in this definition).

Law Number 35 of 2014 concerning child protection has been established to protect children from various forms of violence that damage the future of children, including acts of

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<sup>15</sup>David Casidi Silitonga dan Muaz Zul (2014). "Penerapan Hukum terhadap Pelaku Tindak Pidana Pencabulan Anak di Bawah Umur (Studi Pengadilan Negeri Binjai)." *Jurnal Mercatoria* Vol. 7. No. 1, p. 58-79.

<sup>16</sup>Michael Gurian (1996), *The Wonder of Boys: Cara Membesar Anak Laki-laki Menjadi Pria Sejati*, Jakarta : Serambi, p. 420.

<sup>17</sup>Firda Zahrah and Taun Taun (2023). "Kajian Hukum Pelaksanaan Penegakan Hukum Dengan Pendekatan Restorative Justice Dalam Penyelesaian Kasus Tindak Pidana Pencabulan." *Innovative: Journal Of Social Science Research* Vol. 3. No. 6, p. 551-560.

molestation and rape. Children are born free, they should not be eliminated or removed, but children's freedom must be protected and expanded in terms of obtaining the right to life and the right to protection from parents, family, society, nation and state. Protection of children receives special attention in Law Number 35 of 2014, so that children who are born, grow and develop receive full human rights.<sup>18</sup>

Protection of children's human rights is very important, because children are a major part of the process of holistic human development. Positive law plays a role in supporting the social institutions needed to realize this development in a holistic manner. Complete human development occurs through a continuous evolutionary process influenced by human self-awareness, but the most essential is how the potential of individuals and communities can be actualized. In efforts to protect children, the government continues to strengthen the role of law enforcement so that they are able to act firmly against any form of child abuse. Law enforcement is an important instrument, especially when there are human rights violations in the implementation of development, or when development itself is contrary to human rights principles. In situations like this, children can become victims because their rights are taken away and treated merely as development tools to fulfill the interests of individuals or groups in power.

As a creation of God Almighty, children have inherent rights in accordance with their human dignity, which are guaranteed and protected by laws and regulations. Children need to be given the widest possible space and opportunity to grow and develop optimally, both physically, mentally, and socially. However, along with the progress of the times, the Indonesian nation is now faced with a serious problem in the form of commercial sexual exploitation of children. This crime is not only a national problem, but also a global phenomenon that has a major negative impact, especially for children, in almost all parts of the world.

Child molestation and rape damage the future of children who need guidance, attention and protection. Children in their growth and development need special attention and protection from parents, family, society, nation and state. The growth and development of children to become whole human beings is very dependent on the moral system including normative values according to society.<sup>19</sup>

Children as the next generation of the nation should have everything needed for the development of the whole child is normative. Several rules have been made to protect children as targets for the development of the whole human being. Protection of children is not only the responsibility of the government but must be supported by the self-awareness of the community and members of society as a society whose needs are becoming increasingly diverse/complex, a clear and firm regulation is developed. Positive law will be

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<sup>18</sup>Fitrotun, Siti (2022). "Perlindungan Anak Dalam UU Nomor 35 Tahun 2014 Dalam Perspektif Fikih Hadhanah." *Istidal: Jurnal Studi Hukum Islam* Vol. 9. No. 1, p. 83-97.

<sup>19</sup>Asrid Tatumpe (2019). "Tindak Pidana Pencabulan Terhadap Anak And Tuntutan Hukumnya." *Journal Scientia De Lex* Vol. 7. No. 3, p. 1-19.



born as a social institution needed to meet development needs or in more humane terms to practice human rights.

Children must be guaranteed their safety from all violence or cruelty towards a person (child) including any acts that harm physically or psychologically or direct attacks on the child. Security includes or provides a basis for many children's rights, especially civil rights such as equality before the law and fair legal process (receiving protection/defense).<sup>20</sup>

Children have the right to receive protection from all forms of violence, both physical and psychological, and have the right to a fair and equal legal process, this principle must still be applied even though the child is in a position as a perpetrator of a crime, including in cases of sexual abuse. The juvenile criminal justice system in Indonesia, as regulated in Law Number 11 of 2012, is not designed to provide repressive punishment, but rather emphasizes a restorative justice approach that prioritizes aspects of guidance, recovery, and protection of children's rights. Even though a child has committed a violation of the law, he still needs to be treated fairly by upholding his rights, because as a child, he is still in the development stage and does not yet have full maturity in terms of thinking and acting.

In imposing criminal penalties on children who are perpetrators of sexual abuse, the provisions contained in the Child Protection Act (UUPA) are used to ensure that the legal process that is carried out continues to respect and protect children's rights. The use of UUPA in this context aims to ensure that children's rights are guaranteed even though they are facing the law. Children who are categorized as being in conflict with the law are those who are at least 12 years old but have not reached the age of 18, and are suspected of having committed an act that is classified as a criminal act.<sup>21</sup>

Children who commit the crime of sexual abuse by first seducing the victim, then this act violates Article 76E of the UUPA, which states:

"Everyone is prohibited from using violence or threats of violence, forcing, using trickery, telling a series of lies or persuading a child to do or allow indecent acts to be done."

The punishment for violating Article 76E UUPA, regulated in Article 82 UUPA, is:

(1) Any person who violates the provisions as referred to 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 IDR 5,000,000,000 (five billion rupiah).

(2) In the event that the criminal act as referred to in paragraph (1) is committed by a parent, guardian, child caretaker, educator or education personnel, the penalty shall be increased by 1/3 (one third) of the criminal threat as referred to in paragraph (1).

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<sup>20</sup>Lucy Lidiawati Santioso et. al. (2023), *Psikologi Kriminal-Malpraktek Hipnoterapi: Penegakan Hukum Atas Kasus Pencabulan Anak*. e-book.

<sup>21</sup>Pipin Setyo Utomo (2023). "Penerapan Sanksi Pidana Terhadap Pelaku Tindak Pidana Persetubuhan Yang Dilakukan Oleh Anak: Studi Kasus Putusan Pengadilan Negeri Pemalang Nomor: 3/Pid. Sus-Anak/2018/PN Pml." *Dinamika Hukum* Vol. 14. No. 2.

Children who commit the crime of indecent assault can be held criminally responsible if they are 14 (fourteen) years old. If at the time of committing the crime the child is over 12 (twelve) years old, but has not reached the age of 14 (fourteen) years, then the criminal threat that can be given to the child is a maximum of 1/2 (half) of the prison sentence for adults. However, if the crime committed by the child is threatened with the death penalty or life imprisonment, then the punishment imposed is a maximum of 10 (ten) years imprisonment.<sup>22</sup> In imposing criminal sanctions on children in conflict with the law, including children who commit acts of sexual abuse, judges are required to pay attention to the needs of the child, especially their rights as a child. The Indonesian Constitution, the 1945 Constitution as the highest norm outlines that "every child has the right to survival, growth and development and the right to protection from violence and discrimination."

Based on the Convention on the Rights of the Child, children's rights can generally be grouped into 4 (four) categories, including:

- a. The right to survival (The Right To Survival), namely the rights to preserve and maintain life (The Right of Live) and the right to obtain the highest standard of health and the best possible care.
- b. The right to protection (Protections Rights) is the right in the Convention on the Rights of the Child which includes the right to protection from discrimination, violence and neglect for children who do not have families for refugee children.
- c. The right to development (Development Rights) are the rights of children in the Convention on the Rights of the Child which include all forms of education (formal and non-formal) and the right to achieve a standard of living that is adequate for the physical, mental, spiritual, moral and social development of children (the rights of standard of living).
- d. The right to participate (Participation Rights), namely the rights of children which include the right to express opinions in all matters affecting the child (the rights of a child to express her/his views freely in all matters affecting the child).

The Criminal Code (KUHP) states that a person can be held accountable for his actions if he has full awareness of his actions and understands that the actions are prohibited by applicable law. In the context of the crime of indecent assault committed by a child, Article 82 paragraph (1) of the Child Protection Law states that there is no reason to eliminate the criminal penalty for a child who is proven guilty and declared capable of being responsible, both physically and mentally. However, in the process of imposing sanctions, the judge must still consider that the perpetrator is a child, so that consideration of the background of the act and the principles of justice are important. Therefore, the judge can choose to impose sanctions in the form of actions as an alternative form of punishment, in order to adjust to the needs of the development and recovery of children in conflict with the law.

The forms of sanctions given to children in conflict with the law include:

1. Return to parents/guardians;

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<sup>22</sup>Sihombing, Windah Shindy, Petrus Irwan Panjaitan, and Radisman Saragih (2022). "Penegakan Hukum And Pertanggungjawaban Pidana Terhadap Anak Sebagai Pelaku Tindak Pidana Pencabulan." *Jurnal Hukum to-ra: Hukum Untuk Mengatur and Melindungi Masyarakat*, Vol. 8. Special Issue, p. 284-293.

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2. Surrender to someone;
3. Treatment in a mental hospital; d) Treatment in LPKS;
4. Obligation to take formal education and/or training held by the government or private bodies;
5. Revocation of driving license; and/or g) Correction due to criminal acts.

Sudarto stated that in juvenile justice there are activities of examining and deciding cases that are aimed at the interests of the child, namely that all activities carried out by the police, prosecutors, judges and other officials must be based on a principle, namely for the welfare of the child and the interests of the child.<sup>23</sup>

In Law Number 23 of 2002 concerning Child Protection, Article 1 paragraph (2) explains that: "Child protection is all activities to guarantee the protection of children and their rights so that they can live, grow, develop and participate optimally in accordance with human dignity and honor and receive protection from violence and discrimination."

Juvenile delinquency from time to time always develops and varies, especially regarding the form of delinquency that tends to lead to a form of crime or criminal act. When a child commits a crime, the child will be processed according to applicable law.

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) was born with the aim of perfecting Law Number 3 of 1997 concerning Juvenile Justice, as a result of the demands of the community for a fair, balanced and just settlement process for children's cases that are oriented towards a form of protection for children in conflict with the law. A specific and striking change in the SPPA Law is the existence of a diversion process in resolving children's cases using the restorative justice method with the aim of helping the process of restoring the situation, which involves not only the child perpetrator and the victim but also involves all parties, namely the families of the perpetrator and the victim, the community and the government, in order to achieve justice for all parties.

The SPPA Law states that children are a mandate and gift from God Almighty who have the dignity and honor of a whole human being, and to maintain their dignity and honor, children have the right to receive special protection, especially legal protection in the judicial system. Indonesia as a State Party to the Convention on the Rights of the Child which regulates the principle of legal protection for children has an obligation to provide special protection for children in conflict with the law.

Based on the provisions of Article 61, the reading of the court's decision is carried out in a trial that is open to the public and may not be attended by the child and the child's identity must remain confidential to the mass media. The court is required to provide an excerpt of the decision on the day the decision is pronounced and a maximum of 5 (five) days to provide a copy of the decision to the child or advocate or other legal aid provider, community counselor and public prosecutor.

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<sup>23</sup>Erma Hari Alijana and Nur Sa'adah (2020). "Peran Masyarakat Luas Terhadap Anak-anak Ditinjau Dari Unandg-unandg No 35 Tahun 2014 Tentang Perlindungan Anak." *Pamulang Law Review* Vol. 3. No. 1, p. 49-56.

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Children who are found guilty and sentenced to prison must be placed in a Special Child Correctional Institution (LPKA) to be given guidance until the child is 18 (eighteen) years old. If a child who has not completed his sentence in LPKA and has reached the age of 18 (eighteen) years is transferred to a youth correctional institution. In the case where the child reaches the age of 21 (twenty one) years, but has not completed his sentence, the child is transferred to an adult correctional institution by taking into account the continuity of the child's guidance.

Criminal penalties imposed on children are prohibited from violating the dignity and honor of the child. Criminal penalties in the form of restriction of freedom (imprisonment) are imposed in cases where children commit serious crimes or crimes accompanied by violence, where the penalty for restriction of freedom is a maximum of  $\frac{1}{2}$  (one half) of the maximum prison sentence imposed on adults, while for crimes committed by children that are threatened with the death penalty or life imprisonment, the penalty imposed is a maximum of 10 (ten) years' imprisonment. In cases where a child is sentenced to imprisonment, the child has the right to file a legal appeal, cassation, pardon, or judicial review.

Legal protection for children serving a prison sentence is in the form of enforcing children's rights as regulated in Article 4, namely:

1. Receive a reduction in sentence;
2. Achieving assimilation;
3. Get leave to visit family;
4. Obtaining parole;
5. Obtaining leave before being released;
6. Obtaining conditional leave; And
7. Obtain other rights in accordance with the provisions of laws and regulations.

The Juvenile Criminal Justice System Law (UU SPPA) basically aims to protect the rights of children in conflict with the law. This protection is part of the implementation of the principle of restorative justice, which is carried out through the diversion mechanism as an effort to resolve the case that is more in favor of the child's interests. In Black's Law Dictionary, the concept of diversion is explained as "Diversion" and "Diversion Program." Diversion refers to the process that allows children involved in criminal acts to be diverted from the formal criminal justice system to alternative solutions that are more rehabilitative and in accordance with the child's developmental needs:

"A turning aside or altering the natural course or route of a thing. The term is chiefly applied to the authorized change and alteration of the water course to the prejudice of a lower riparian, or the authorized use of funds."<sup>24</sup>

Furthermore, the Diversion Program, in Black's Law Dictionary, states:

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<sup>24</sup>Henry Campbell Black (1990), *Black's Law Dictionary*, St. Paul Minn West Publishing Co., Sixth Edition, p. 477.

"A disposition of a criminal defendant either before or after adjudication of guilt in which the court directs the defendant to participate in a work or educational program as part of probation."

Meanwhile, the definition of Diversion based on Article 1 Number 7 of the SPPA Law, diversion is the transfer of the settlement of a Child's case from the criminal justice process to a process outside the criminal justice system. In the child criminal justice system, diversion must be attempted starting from the level of investigation, prosecution and examination of the case in court. The purpose of attempting diversion is stated in Article 6 of the SPPA Law, namely:

1. Achieving peace between victims and children;
2. Resolving children's cases outside the judicial process;
3. Protecting children from deprivation of liberty;
4. Encourage the community to participate; and
5. Instilling a sense of responsibility in children.

For the implementation of diversion for Children in Conflict with the Law, there are conditions that must be met. This is regulated in Article 7 paragraph (2) of the UUSPPA, which states that diversion can only be attempted for criminal acts that are threatened with imprisonment of less than 7 (seven) years and are not a repetition of the crime. These conditions are cumulative or must be met both, if only one is not met then diversion cannot be applied.

Referring to Article 7 paragraph (2) of the SPPA Law, diversion is only possible for criminal acts with a sentence of less than seven years and not a repeat of the crime. This shows that there is legal certainty regarding the category of criminal acts that can be resolved through a restorative justice approach. However, in cases of child molestation, especially those that violate Article 76E in conjunction with Article 82 paragraph (1) of the UUPA, the maximum criminal threat is 15 years in prison, which automatically closes the opportunity for diversion. From the perspective of legal certainty, this rule is consistent and not open to multiple interpretations that if the criminal threat is more than 7 years, then diversion cannot be carried out. However, this legal certainty focuses more on the normative aspect than paying attention to the principle of balance between protecting children as perpetrators and protecting victims. In the juvenile criminal justice system, this is a dilemma between maintaining legal certainty and implementing the principle of child protection and the best interests of children.

### **3.2. Ideal Regulation of Criminal Acts of Child Abuse Against Child Victims Based on Restorative Justice in the Future**

Criminal law is a part of law in general. Criminal law exists to provide sanctions for anyone who commits a crime. Talking about criminal law cannot be separated from matters related to criminalization. The meaning of the word criminal in general is law while criminalization is interpreted as punishment.<sup>25</sup>

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<sup>25</sup>Rini Apriyani (2018). "Keberadaan Sanksi Adat Dalam Penerapan Hukum PidanaAdat." *Jurnal Hukum PRIORIS*, Vol. 6. No. 3, p. 227-246.



As a country of law, Indonesia must uphold the law without discrimination, including in handling the problems of children in conflict with the law in providing protection. Child Protection Law is a law that is the basis and guideline for protecting, regulating, and guaranteeing that children can exercise their rights and obligations in a balanced and positive humane manner. Legal protection for children in relation to the phenomenon of sexual abuse is protection that is carried out before and after the child becomes a victim of sexual abuse. The Child Protection Law emphasizes that the responsibility of parents, families, communities, governments and the state is a series of activities that are carried out continuously in order to protect children's rights.<sup>26</sup>

Legal protection for child perpetrators is any form of effort to provide a guarantee of rights and obligations for the sake of the child's growth and development in a natural manner, both physically, psychologically and even socially. Legal protection for children is a process of achieving justice, even though in the case of children as perpetrators of criminal acts, children are still children. The birth of the law on the juvenile criminal justice system provides an effort to protect children legally because the law is to protect children who are vulnerable to violations of children's rights. The implementation of juvenile criminal justice is enforced in order to achieve the continuity of the best interests of children in order to achieve child welfare based on existing principles.<sup>27</sup>

The juvenile criminal justice system provides protection aimed at fulfilling children's rights so that there is no abuse that will lead to undesirable negative impacts in the implementation of both the police, prosecutors, and courts. Therefore, the existence of protection for children does not create a tendency for children from discriminatory treatments against children that often occur during the process, such as arrest, detention and criminalization.<sup>28</sup>

Legal protection for children has a fairly broad spectrum. In various international documents and meetings it is seen that the need for legal protection for children can cover various aspects, namely:<sup>29</sup>

- a. Protection of children's human rights and freedoms;
- b. Protection of children in the judicial process;
- c. Protection of welfare (in the family, educational and social environment);
- d. Protection of children in cases of detention and deprivation of liberty;
- e. Protection of children from all forms of exploitation (slavery, child trafficking, prostitution, pornography, drug trafficking/abuse, using children to commit crimes, etc.);
- f. Protection of street children;
- g. Protection of children from the consequences of war/armed conflict;

<sup>26</sup>Andik Prasetyo (2020). "Perlindungan hukum bagi anak pelaku tindak pidana." *Mizan: Jurnal Ilmu Hukum*, Vol. 9. No. 1, p. 51-60.

<sup>27</sup>Rini Fitriani (2016). "Peranan penyelenggara perlindungan anak dalam melindungi and memenuhi hak-hak anak." *Jurnal Hukum Samudra Keadilan*, Vol. 11. No. 2, p. 250-358.

<sup>28</sup>Dirwansyah Dirwansyah et. al. (2021), "Pertanggungjawaban Pidana dalam Tindak Pidana Pencabulan yang dilakukan Oleh Anak (Analisa Putusan Pengadilan Nomor 6/Pid. Sus. Anak/2018/PT. Mdn)." *Warta Dharmawangsa*, Vol. 15. No. 2, p. 184-191.

<sup>29</sup>Barda Nawawi Arief (1998), *Beberapa Aspek Penegakan and Pengembangan Hukum Pidana*, Bandung : Citra Aditya Bakti, p. 155

#### h. Protection of children against acts of violence.

According to Arief Gosita, child protection is an effort that creates situations and conditions that enable the implementation of children's rights and obligations in a positive humane manner. This means protecting children to obtain and maintain their right to live, survive, grow and develop and be protected in the exercise of their rights and obligations alone or together with their protectors.

The author conducted several studies related to legal regulations regarding the handling of children as perpetrators of sexual abuse, namely in England, Germany and the Netherlands.

##### 1. English

In England and Wales, children (under 18) who commit sexual offences are tried in Youth Court with a particular focus on rehabilitation. The UK Sentencing Council produces specific guidelines for sexual offences against children/young people. These guidelines emphasize personal mitigating factors (young age, immaturity, learning disabilities, unstable family backgrounds, etc.) which can reduce the sentence to avoid imprisonment.

If imprisonment is imposed, the court must state why no other appropriate sanction is available, and the term of imprisonment should be as short as possible. It is recommended that 15–17 year olds receive  $\frac{1}{2}$ – $\frac{2}{3}$  of the sentence for adults, with a greater reduction for those <15 years. The principles of juvenile sentencing are based on the involvement of the Youth Offending Team (YOT), counselling, and only using detention as a last resort. The UK applies restorative justice to juvenile offenders, including sexual offences. Victim-offender consultation processes can occur during the trial process and be integrated into the sanction.<sup>30</sup>

The CPS (Crown Prosecution Service) policy confirms that RJ can be part of the sentence. Youth Offending Teams offer mediation and family group conferences as part of their child rehabilitation programme. For example, the Restorative Justice Council (an independent organisation) encourages RJ to be a “central part” of every YOT’s work, with every victim and young offender given the opportunity to participate.

The juvenile justice system in the UK is separate from the adult system. The age of criminal responsibility is 10 and over, with children aged 10–17 being tried in special youth courts. The Youth Justice and Criminal Evidence Act 1999 and the Crime and Disorder Act 1998 emphasised the focus of juvenile justice on prevention of reoffending and rehabilitation, rather than simply punishment.

##### 2. German

Handling of child sexual offenders in Germany is based on the Jugendgerichtsgesetz (JGG) and the principle of rehabilitative juvenile criminal law. According to the German Ministry of Justice, “the goal of juvenile criminal law is not merely to punish, but to encourage children

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<sup>30</sup>Restorative Justice, <https://www.cps.gov.uk/legal-guidance/restorative-justice#:~:text=Using%20Restorative%20Justice%20Processes%20in,the%20Criminal%20Justice%20System> accessed on May 7, 2025

to reflect on their actions and especially to prevent recurrence of crimes.”<sup>31</sup>This is reflected in Article 2 paragraph 1 of the JGG which stipulates the prevention of recidivism as the main objective, and all criminal processes and sanctions for children are directed towards educational interests (Erziehungsgeandke). Although the focus of the JGG is on fostering and coaching, the JGG regulations limit the length of a child's prison sentence (Jugendstrafe). For ages 14-17, the minimum detention period is 6 months and the maximum is 5 years; beyond that (for example, serious crimes) the maximum is 10 years. However, before deciding on imprisonment, the court is required to evaluate various alternatives. Factors such as developmental history, mental disorders, and steps the child has taken to change, have a significant influence on reducing the sentence. If detention is still imposed, the duration must be "at least in accordance with the seriousness of the act".

The German legal system views the aspect of balance with the victim, where juvenile justice can utilize Täter-Opfer-Ausgleich (offender-victim mediation).<sup>32</sup>Since the 1980s, Germany has regulated victim-offender mediation. The law is regulated in the JGG, the Criminal Code, and the Criminal Procedure Code which include TOA as an instrument to mitigate or resolve cases. This regulation makes victim-offender mediation (TOA) an important part of restorative justice, where victims can express the impact of the crime, while the perpetrators are motivated to introspect and improve themselves. According to the BMJ (German Ministry of Law and Human Rights), the existence of TOA is considered to "exemplify" the principles of restorative justice and is an "irreplaceable complement" to the juvenile criminal system based on education.

### 3. Dutch

The Netherlands implements a juvenile criminal system that places great emphasis on education and reintegration. The Dutch Criminal Code (Wetboek van Strafrecht) regulates articles 77a–77g specifically for young offenders (aged 12–17). The legal basis states that any sanctions for children must be reformative, where the idea of education and the main objective is to prevent recurrence of violations by educating the child. Therefore, criminal enforcement tends to be more educational than imprisonment. Alternative sanctions in the Netherlands are widely available. For example, Halt (a light punishment scheme by the police with up to 20 hours of community service) or taakstraf (community service) can be given for minor offenses. If detention is necessary, juvenile detention (jeugddetentie) is limited to a maximum of 1 year for ages 12–15, and 2 years for ages 16–17.<sup>33</sup>

Judges tend to give minimum prison terms by considering the child's self-improvement and background factors. Juvenile Correctional Institutions (justitiële jeugdinrichting) are designed

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<sup>31</sup>Täter-Opfer-Ausgleich,

[https://www.bmj.de/DE/themen/praevention\\_opferhilfe/opferschutz\\_strafverfahren/taeter\\_opfer\\_ausgleich/taeter\\_opfer\\_ausgleich\\_node.html#:~:text=begangene%20Unrecht%20und%20zu%20entsprechenden,eine%20unverzichtbare%20Erg%C3%A4nzung%20der%20Reaktionsm%C3%B6glichkeiten](https://www.bmj.de/DE/themen/praevention_opferhilfe/opferschutz_strafverfahren/taeter_opfer_ausgleich/taeter_opfer_ausgleich_node.html#:~:text=begangene%20Unrecht%20und%20zu%20entsprechenden,eine%20unverzichtbare%20Erg%C3%A4nzung%20der%20Reaktionsm%C3%B6glichkeiten) accessed on 10 May 2025

<sup>32</sup>Jugendstrafrecht für junge Rechtsbrecher, <https://iurratio.de/journal/jugendstrafrecht-fuer-junge-rechtsbrecher#:~:text=Obwohl%20es%20sich%20um%20eine,1> accessed on 5 May 2025

<sup>33</sup>Annemieke Wolthuis (2020), Restorative Aspects in the Dutch Juvenile Justice System, *2nd International Conference on Conferencing and Circles*, August 10-12,

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as correctional institutions. There, juvenile prisoners learn social skills, education, and participate in special programs to reduce the risk of repeating criminal acts.

The Netherlands has specific programs for juvenile sexual offenders, including the Seksuele Vorming (Sex Learning Project) for young offenders who first commit non-violent sexual offences. This program helps offenders understand sexuality and prevent predatory behaviour.<sup>34</sup> Previously there was also the Slachtoffer in Beeld project for non-contact theft/dawah, but in sexual cases, the focus was on educating the perpetrator through counseling and learning about correct sexuality. Beyond that, there is the Focus on the Victim project which directs young perpetrators to understand the effects of crime on victims, even though the victims are not always directly involved.

Legal regulations in England, Germany, and the Netherlands can be used as lessons for the Indonesian legal system in handling the criminalization of children as perpetrators of sexual abuse with child victims. The three countries prioritize an approach that emphasizes the principles of rehabilitation, social reintegration, and restorative justice. In England, although children are processed through the justice system, special children's courts still pay attention to personal mitigating factors such as age, immaturity, and the child's psychological and social conditions. Restorative justice practices are even involved from the beginning of the judicial process, which allows for the resolution of cases through mediation between the perpetrator and the victim. The system in Germany is rooted in the philosophy of education in the criminalization of children. The imposition of sanctions is not to retaliate, but to foster, prevent repetition, and strengthen the child's moral responsibility for their actions. Mediation between the perpetrator and the victim is regulated and can reduce or drop criminal sanctions, and the restoration of social relations is part of the law enforcement process. Meanwhile, in the Netherlands, there is a structure that strongly supports the development of children through sexual education and reintegration projects, which avoids long-term stigmatization of child perpetrators of sexual abuse, especially if violence or elements of severe coercion are not found. This system also provides diversion space since the investigation with an educational and social approach.

Indonesian law should be able to encourage the renewal of the juvenile criminal justice system, especially for children caught in cases of sexual abuse. Lessons from these countries show that even if children commit crimes of sexual abuse,<sup>35</sup> the legal system still provides room for consideration of restoration. Therefore, Indonesia needs to review the normative limitations in the SPPA Law which prohibits diversion for criminal acts of more than seven years in prison, and reconstruct Article 140 paragraph (2) of the Criminal Procedure Code so that it can become a legal basis for stopping prosecution in child cases based on restorative justice.

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<sup>34</sup>Sexual offences-Sentencing children and young people, <https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/sexual-offences-sentencing-children-and-young-people/> accessed on 1 May 2025

<sup>35</sup>Budi Suhariyanto (2017). "Kedudukan Perdamaian Sebagai Penghapus Pemiandaan Guna Mewujudkan Keadilan Dalam Pembaruan Hukum Pianda." *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* Vol. 6. No. 1, 2, 1-19.

The Juvenile Criminal Justice System Law (UU SPPA) explicitly prioritizes the resolution of juvenile cases using a restorative justice approach, Article 5 paragraph (1) of the SPPA Law even requires the juvenile justice system to prioritize restorative justice. As an instrument of restorative justice, the SPPA Law establishes a diversion mechanism. However, Article 7 paragraph (2) of the SPPA Law limits the implementation of diversion only to juvenile cases that are threatened with imprisonment of less than 7 years and not a repetition of the crime. In other words, the formal requirements for diversion include the threat of imprisonment of less than 7 years and not a repetition of the crime.

The crime of indecent assault as regulated in Article 289 of the Criminal Code threatens a prison sentence of up to 9 years. Therefore, child perpetrators of indecent assault do not meet the requirements of a threat of <7 years, so legally they cannot be diverted. This is contrary to the purpose of the formation of the SPPA Law, namely to prevent children from justice and restore the situation, in this case the provisions of Article 7 (2) of the SPPA Law expressly hinder the implementation of diversion in cases of indecent assault. Because diversion cannot be applied to child indecent assault, a breakthrough in resolving restorative justice is needed.

According to the author, the steps that can be taken are to terminate the prosecution based on restorative justice by encouraging the prosecutor to use the authority of Article 140 (2) of the Criminal Procedure Code to terminate the prosecution if an agreement on restoration and peace is reached. As referred to in the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2024 concerning Guidelines for Trying Criminal Cases Based on Restorative Justice and the Regulation of the Prosecutor's Office of the Republic of Indonesia Number 15 of 2020. Termination of Prosecution Based on Restorative Justice, the Prosecutor's Office can apply the restorative justice mechanism if the victim forgives and the child perpetrator is willing to be responsible for the victim's losses as a basis for terminating the criminal process.

Reconstruction of Article 140 paragraph (2) of the Criminal Procedure Code is needed to provide space for termination of cases for child perpetrators of sexual abuse within the framework of restorative justice. The principle of child protection (best interest of the child) which is recognized nationally and internationally demands that the interests of children be prioritized in law enforcement. Therefore, adding the phrase "peace efforts through restorative justice" to explicitly include the restorative interests of children. This reconstruction approach is in line with the hierarchy of norms as *lex specialis*, the SPPA Law demands the termination of the criminal process for children under certain conditions, so that the Criminal Procedure Code must be interpreted to be in line with the regulations of the SPPA Law. The addition of the phrase "peace efforts through restorative justice" in Article 140 (2) will also bridge the legal framework for juvenile justice which prioritizes mediation.

#### **4. Conclusion**

Regulation of criminal acts of child molestation against child victims in Indonesia has been regulated in the Criminal Code, the Child Protection Law, and the Child Protection and Child



Protection Law, with the aim of providing protection for children both as victims and as perpetrators. Although child perpetrators of child molestation can be subject to criminal responsibility, the Indonesian legal system still requires an approach that upholds children's rights, including rehabilitation efforts through the child criminal justice system. However, Article 7 paragraph (2) of the Child Protection and Child Protection Law limits the application of diversion, so that child perpetrators in criminal acts of child molestation cannot be diverted, legal uncertainty in the principle of child protection. Therefore, although existing regulations have guaranteed legal protection, a review is needed to align the objectives of punishment with the restorative justice approach to children. Ideal settings for regulation of criminal acts of sexual abuse by child perpetrators against child victims in the future must be directed towards a restorative justice-based approach that guarantees the protection of children's rights. Lessons learned from the English, German and Dutch legal systems show that child punishment can be carried out in a humane manner by emphasizing rehabilitation. The child criminal law system in Indonesia through the SPPA Law needs to be revised to provide space for settlement outside the courts, including for cases with a criminal threat of more than seven years such as molestation, which is currently excluded from diversion. In addition, the government also needs to reconstruct Article 140 paragraph (2) of the Criminal Procedure Code to become the legal basis for stopping prosecution with a restorative justice approach, to ensure that the principle of "the best interests of the child" remains the main priority in the national criminal justice system.

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