

## Prosecutor's Authority in Terminating Prosecution of Juvenile Criminal Cases Based on Restorative Justice

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**Abstract.** *The Attorney General's Office of the Republic of Indonesia as a government institution that exercises state power in the field of prosecution must be able to realize legal certainty, legal order, and justice. Likewise in criminal cases committed by children, this concept is used as one of the efforts that will realize justice, certainty and legal benefits because by terminating prosecution through Diversion as a form of the concept of restorative justice. This study aims to determine, examine, analyze the authority of prosecutors, mechanisms, and authorities in the future in terminating prosecution of child criminal cases based on restorative justice. The approach method used in this study is Normative juridical. The specifications of this study are descriptive analytical. The data sources used are secondary data consisting of primary legal materials, secondary legal materials, and testier legal materials. Based on the results of the study, it can be concluded that the authority of the prosecutor in terminating the prosecution of child criminal cases based on restorative justice is guided by the Attorney General's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice and also by considering Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The mechanism for terminating prosecution in child criminal cases based on restorative justice is to seek a settlement process with diversion as a path to follow from the concept of restorative justice. The concept of the prosecutor's authority policy in terminating prosecution in child criminal cases based on restorative justice in the future it should be emphasized by regulating complex authority in Legislation which has a higher position than the position of the Regulation issued internally by the relevant Institution, in this case the Attorney General's Regulation regarding the termination of prosecution based on restorative justice.*

**Keywords:** Authority; Crime; Justice; Prosecutor; Termination.

## 1. Introduction

The Republic of Indonesia is a state based on law as stated in Article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia. Explicitly, in the Preamble to the 1945 Constitution of the Republic of Indonesia in the fourth paragraph, it clearly states that the purpose of establishing the Indonesian government is, among other things, to protect the entire Indonesian nation and all of Indonesia's territory, advance public welfare, improve the life of the nation, and participate in implementing world order.

The rule of law aims for legal certainty, legal justice, and legal benefits, but from these goals, justice is the main goal of legal benefits and legal certainty. The main goal of law is to create an orderly social order, to create order and balance. Every relationship between communities must not conflict with the provisions of existing and applicable legal regulations.<sup>1</sup>

Behavior that is not in accordance with norms or can be called a deviation from agreed norms turns out to disrupt the order and tranquility of human life. Such deviations, usually by society will be labeled as a violation or even a crime. Crime in community life is a social phenomenon that will always be faced by every human being, society, and even the state which in this case can hinder the implementation of national development.<sup>2</sup>

The development of technology in the 4.0 era affects human behavior and mindset in national and state life, so that it has an impact on life, namely giving rise to treatment that is not in accordance with existing norms or regulations and will trigger the emergence of crime in various environments. This response cannot be separated from various factors, both law enforcement itself and external influences.<sup>3</sup>

In Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, it has been regulated in such a way that when there is a case of a child in conflict with the law, a Non-penal punishment can be imposed, the term in law is Diversion, where a transfer of the settlement of cases of children suspected of committing certain crimes from the formal criminal process to a peaceful settlement between the suspect/defendant/perpetrator of the crime and the victim facilitated by the family and community of the child's community counselor, police, prosecutor or judge. Therefore, not all cases of children in conflict with the law must be resolved through formal justice, and providing an alternative for settlement with a restorative justice approach, then, for cases of children in

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<sup>1</sup> Yati Nurhayati, *Introduction to Legal Science* (Bandung: Nusa Media Publisher, 2020), pp. 63-64.

<sup>2</sup> Bambang Waluyo, *Crime and Punishment* (Jakarta: Sinar Grafika, 2008), p. 1.

<sup>3</sup> I Made Dwi Narendra, et al., "The Role of Prosecutor's Intelligence in Disclosing Corruption Cases (Case Study of the Buleleng District Attorney's Office)", *Jurnal Preferensi Hukum*, Vol. 3, No.1 March 2022, p. 12-16.

conflict with the law, diversion can be carried out in the best interests of the child and by considering justice for the victim.<sup>4</sup>

The Attorney General's Office of the Republic of Indonesia as a government institution that exercises state power in the field of prosecution must be able to realize legal certainty, legal order, justice, and truth based on law and respect religious norms, decency, and morality, and must explore the values of humanity, law, and justice that live in society. In terms of restorative justice, the public prosecutor who is the prosecutor is given the authority by law to carry out prosecution and implement the judge's decision.

The Republic of Indonesia Attorney General's Regulation issued the Republic of Indonesia Attorney General's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice as stated in Article 1 number 1 explaining that Restorative Justice is the resolution of criminal cases by involving the perpetrator, victim, the perpetrator/victim's family, and other related parties to jointly seek a fair resolution by emphasizing restoration to the original state, not revenge.<sup>5</sup>

Legal Facts at Kenda District Attorney's Office as on Tuesday, March 21, 2023 in the Diversion Room of the Kendal District Attorney's Office, diversion was carried out at the Prosecution level involving a Child in Conflict with the Law/Child Perpetrator with the initials DSHP who had violated the provisions of Article 362 of the Criminal Code with a case position that began on Wednesday, March 8, 2023 at around 01.00 WIB when Child DSHP passed Kp. Pandean, Krajangkulon Village, Kaliwungu District, Kendal Regency, precisely in front of one of the cellphone counters because the Child wanted to urinate in the hallway to the left of the cellphone counter, and the Child saw that there was a cellphone counter door in the hallway. Furthermore, after urinating, the Child's intention arose to enter the cellphone counter and take the cellphone through the door in the hallway. Then using both hands, the Child pressed the top door made of white iron which was not locked, the top door was open, and the Child managed to enter the cellphone counter through the door in the hallway. After successfully entering, the child took several cellphones from the cellphone counter and put them in the pants he was wearing and covered them with the yellow jacket he was wearing. After successfully taking several cellphones, the child then left the cellphone counter.<sup>6</sup>

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<sup>4</sup>Bunadi Hidayat, *Criminalization of Minors* (Bandung: PT Alumni, 2010), p. 83.

<sup>5</sup> The Republic of Indonesia Attorney General's Office issued Republic of Indonesia Attorney General's Office Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, Article 1 number 1.

<sup>6</sup> <https://kejari-kendal.kejaksaan.go.id/index.php/2023/03/30/keberhasilan-kejaksanaan-negeri-kendal-dalam-pelaksanaan-diversi-perkara-tindak-pidana-yang-dilaksana-oleh-anak/>,

The case example above is one form of application of Restorative Justice carried out by the Public Prosecutor at the prosecution stage through Diversion as obtained results for the termination of prosecution based on a peace agreement between the parties.

Legal basis *Restorative Justice* or Termination of prosecution based on restorative justice is carried out to fulfill the community's sense of justice by balancing legal certainty (*rechtmatigheid*) and benefit (*doelmatigheid*) in implementing the authority to prosecute based on law and conscience.<sup>7</sup>Settlement of criminal cases by prioritizing restorative justice does not merely apply decisions about who wins and loses but emphasizes the restoration of the original state and the balance of protection and interests of victims and perpetrators of criminal acts that are not oriented towards revenge.<sup>8</sup>Based on the background that has been described, this article describes the Authority of the Prosecutor in Terminating Child Criminal Cases Based on Restorative Justice.

## **2. Research Methods**

The approach method used in this study is normative juridical. The specifications of this study are descriptive analytical. The data sources used are secondary data obtained from literature study research consisting of primary legal materials, secondary legal materials, and testier legal materials.

## **3. Results and Discussion**

### **3.1. The Authority of the Prosecutor in Terminating Prosecution of Child Criminal Cases Based on Restorative Justice**

According to Law Number 11 of 2021 concerning the Attorney General's Office of the Republic of Indonesia, the prosecutor's office is a government institution whose functions are closely related to the judicial power which exercises state power in the field of prosecution and other authorities based on the Law.<sup>9</sup>The Attorney General's Office of the Republic of Indonesia is a government institution that exercises state power independently, especially the implementation of duties and authorities in the field of prosecution and carrying out duties and

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<sup>7</sup> <https://rumahrjkejaksaan.luwuutarakab.go.id/teman>, accessed on December 29, 2024 at 12.47 WIB.

<sup>8</sup>Eko Syaputra, Implementation of the Restorative Justice Concept in the Criminal Justice System in the Future, *lex lata Scientific Journal of Law*, Faculty of Law, Sriwijaya University, Vol. 3, No. 2, July 2021.

<sup>9</sup> Law Number 11 of 2021 concerning the Attorney General's Office of the Republic of Indonesia, Article 1 Number (1).

authorities in the field of investigation and prosecution of corruption and serious human rights violations cases as well as other authorities based on Constitution.<sup>10</sup>

The Prosecutor's Office is also the only institution that implements criminal decisions (executive ambtenaar). In addition to playing a role in criminal cases, the Prosecutor's Office also has another role in Civil and State Administrative Law, namely being able to represent the Government in Civil and State Administrative Cases as a State Attorney. The Prosecutor as the executor of this authority is given the authority as a Public Prosecutor and to implement court decisions, and other authorities based on the Law.<sup>11</sup>

Based on Article 2 paragraph (2) of Law Number 16 of 2004 concerning the Republic of Indonesia Prosecutor's Office, it is explained that the Prosecutor's Office carries out its duties independently, which means it is free and free from the influence of any party in order to realize certainty, justice and legal benefits by adhering to the norms that exist in community life.<sup>12</sup> The duties and authorities of the prosecutor's office are regulated in Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, specifically in Articles 30, 31, 32, and 33.

In line with the above, Article 2 of the Republic of Indonesia Prosecutor's Office Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice explains that termination of prosecution based on restorative justice is carried out based on justice, public interest, proportionality, criminal law as a last resort, and fast, simple and low cost.<sup>13</sup>

Article 3 of the Republic of Indonesia Prosecutor's Office Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice states that:

- (1) The Public Prosecutor has the authority to close a case in the interests of law.
- (2) Closing of a case for legal reasons is carried out in the following cases:
  - a. the accused died;
  - b. expiration of criminal prosecution;

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<sup>10</sup>Wikipedia, [https://id.wikipedia.org/wiki/Kejaksaan\\_Republik\\_Indonesia](https://id.wikipedia.org/wiki/Kejaksaan_Republik_Indonesia), accessed on January 2, 2025 at 12.23 WIB.

<sup>11</sup>Attorney General of the Republic of Indonesia, <https://kejaksaan.go.id/about/info>, accessed on January 2, 2025 at 12.38 WIB.

<sup>12</sup> M. Yuhdi, "Duties and Authorities of the Prosecutor's Office in the Implementation of General Elections", *Journal of Pancasila and Citizenship Education*, Volume 7, Number 2, 2014, p. 96

<sup>13</sup> Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, Article 2.

- c. there has been a court decision that has permanent legal force against a person for the same case (*nebis in idem*);
- d. complaint for a criminal offense the complaint is withdrawn or withdrawn; or
- e. there has been a settlement of the case outside the court (*afdoening buiten process*).

(3) Settlement of cases outside the court as referred to in paragraph (2) letter e may be carried out with the following provisions:

- a. for certain criminal acts, the maximum fine is paid voluntarily in accordance with the provisions of statutory regulations; or
- b. there has been a restoration of the original situation using a Restorative Justice approach.

(4) Settlement of cases outside the court using the restorative justice approach as referred to in paragraph (3) letter b stops prosecution.

(5) Termination of prosecution based on restorative justice as referred to in paragraph (4) is carried out by the Public Prosecutor responsibly and submitted in a hierarchical manner to the Head of the High Prosecutor's Office.

Termination of prosecution based on Restorative Justice is also carried out by considering the interests of the victim and other protected legal interests, avoiding negative stigma, avoiding retaliation, community response and harmony, and propriety, morality and public order. Termination of prosecution is carried out by considering the subject, object, category, and criminal threat, background of the occurrence or commission of the crime, level of despicableness, losses or consequences arising from the crime, cost and benefit of handling the case, restoration to the original state and also the existence of peace between the Victim and the Suspect.<sup>14</sup>

The regulation of termination of prosecution by the public prosecutor is based on the law in Article 140 paragraph (2) of the Criminal Procedure Code as one of the applications of restorative justice. From these provisions it can be seen that in general it regulates the reasons for termination of prosecution and the procedures for terminating prosecution. As the reason for termination of prosecution itself is because there is insufficient evidence, the incident is not a criminal act and the case is closed by law.

In line with the above, the Prosecutor's Office issued Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice (hereinafter referred to as Perja No.

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<sup>14</sup>Ibid, Article 4.

15/2020). According to this regulation, the Public Prosecutor (JPU) has the right to stop the prosecution of the accused in certain cases, if the victim and the accused have agreed to make peace.<sup>15</sup>

The purpose of hal of courseto jointly create an agreement on the settlement of criminal cases that is fair and balanced for both victims and perpetrators by prioritizing restoration to the original state and restoring good relations in society.<sup>16</sup>

Termination of Prosecution Based on Restorative Justice as regulated in the Attorney General's Regulation Number 15 of 2020, is a guideline for Public Prosecutors to terminate prosecution by taking into account justice, public interest, proportionality, criminal law as a last resort, and speed, simplicity, and low cost.<sup>17</sup>

According to the theory of authority, Authority is formal power, power comes from legislative power or from executive administrative power. Authority is power over a certain group of people over the government.<sup>18</sup>

The authority held by government organs (institutions) in carrying out real actions, making regulations or issuing decisions is always based on the authority obtained from the constitution through attribution, delegation, and mandate. In relation to the concept of attribution, delegation, or mandate, JG Brouwer is of the opinion that attribution is the authority given to a government organ or state institution by an independent legislative body. This authority is original, which is not taken from previously existing authority.<sup>19</sup>

So if it is associated with the theory of authority, the prosecutor's authority to terminate prosecution in juvenile criminal cases based on restorative justice, namely with the authority to divert in order to fulfill restorative justice, is regulated as in Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, Regulation of the Attorney General Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice as an internal regulation of the Prosecutor's Office issued by the Attorney General of the Republic of Indonesia based on the provisions as stipulated in Article 35 Paragraph (1) letter a of the Prosecutor's Office Law which contains guidelines for technical provisions regarding the process and/or mechanism for terminating prosecution based on

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<sup>15</sup>Dessy Kusuma Dewi, The Authority of the Prosecutor to Stop Prosecution for the Sake of Justice, *Dictum: Journal of Legal Studies*, Vol 9, No.1, May 2021.

<sup>16</sup>*Ibid.*

<sup>17</sup>Gita Santika, Pearn Attorney General's Office Realizing Restorative Justice as an Effort to Combat Crime, *Progressive: Journal of Law* Vol xvi No 1, June 2021.

<sup>18</sup>Prajudi Atmosudirjo, *Op.Cit*

<sup>19</sup>JG Brouwer and Schilder, A Survey of Dutch Administrative law, quoted in: Rusadi Kantaprawira, 1998, p. 41.

restorative justice for the Prosecutor, then in the event that the Prosecutor terminates prosecution based on restorative justice, it must be assessed as part of the implementation of attribution authority.

### **3.2. Mechanism for Termination of Prosecution of Child Criminal Cases Based on Restorative Justice**

Termination of prosecution as referred to in the Restorative Justice referred to above, can be done by considering several provisions, namely:<sup>20</sup>

- a. Subjects, objects, categories and threats of criminal acts;
- b. The background to the commission of the crime;
- c. Level of depravity;
- d. Losses or consequences arising from criminal acts;
- e. *Cost and benefit* case handling;
- f. Recovery Returning to its original state; And
- g. There is peace between the victim and the suspect.

Termination of prosecution based on Restorative Justice in this case of juvenile crimes, is carried out by fulfilling the following requirements:

- a. there has been a restoration to the original condition carried out by the Suspect in the following manner:
  - 1) return items obtained from criminal acts to the victim;
  - 2) compensate the victim for losses;
  - 3) replace costs incurred as a result of criminal acts; and/or
- b. there has been a peace agreement between the Victim and the Suspect; and
- c. the community responded positively.<sup>21</sup>

The Public Prosecutor who handles child criminal cases in the termination of prosecution of this case is in the form of fulfilling the requirements for termination of the case based on Restorative Justice, one of which is the restoration of the victim's condition as before, which is marked by the achievement of an agreement to reconcile between the two parties as evidenced by a peace letter. Therefore, diversion is chosen as one way to realize restorative justice which aims as a process of resolving criminal cases using a justice

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<sup>20</sup>Ibid, Article 4 Paragraph (2).

<sup>21</sup>Ibid, Article 5 paragraph (6).



approach and the opportunity to obtain recovery for victims due to criminal acts committed by the perpetrator. The criminal justice system in Indonesia often ignores the rights of victims who suffer and are harmed.

Efforts to resolve child criminal cases, namely diversion at the level of investigation, prosecution, and examination of children's cases in the district court, must be attempted Diversion. These efforts are carried out in cases where the crime committed is threatened with imprisonment of less than 7 years and is not a repetition of the crime.<sup>22</sup>The Diversion Process is carried out through deliberation involving the Child and his/her parents/guardians, the victim and/or his/her parents/guardians, Community Counselors, and Professional Social Workers based on the Restorative Justice approach which may involve Social Welfare Workers, and/or the community. The Diversion Process must take into account the interests of the victim, the welfare and responsibility of the Child, avoidance of negative stigma, avoidance of revenge, community harmony, propriety, morality, and public order.<sup>23</sup>

Investigators, Public Prosecutors, and Judges in conducting Diversion must consider the category of the crime, the age of the child, the results of community research from Bapas, and support from the family and community environment. The Diversion Agreement must obtain the approval of the victim and/or the Child Victim's family and the willingness of the Child and his/her family, except for crimes in the form of violations, minor crimes, crimes without victims, or the value of the victim's loss is not more than the local provincial minimum wage.<sup>24</sup>

Diversion Agreement to resolve criminal acts in the form of violations, minor crimes, crimes without victims, or the value of the victim's losses is not more than the local provincial minimum wage can be carried out by investigators together with the perpetrator and/or his/her family, Community Guidance Officers, and can involve community leaders. The Diversion Agreement as referred to is carried out by the Investigator on the recommendation of the Community Guidance Officer and can be in the form of restitution of losses in the event of a victim, medical and psychosocial rehabilitation, return to parents/guardians, participation in education or training at educational institutions or LPKS for a maximum of 3 (three) months; or community service for a maximum of 3 (three) months.<sup>25</sup>

The results of the Diversion agreement can be in the form of peace with or without compensation, return to parents/guardians, participation in education

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<sup>22</sup>Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Article 7.

<sup>23</sup> *Ibid*, Article 8.

<sup>24</sup>*Ibid*, Article 9.

<sup>25</sup>*Ibid*, Article 10.

or training at educational institutions or LPKS for a maximum of 3 (three) months; or community service.<sup>26</sup>

The results of the Diversion agreement are submitted by the direct superior of the official responsible at each level of examination to the district court according to its jurisdiction within a maximum of 3 (three) days since the agreement was reached to obtain a determination. The determination is made within a maximum of 3 (three) days from the receipt of the Diversion agreement. The determination is submitted to the Community Guidance Officer, Investigator, Public Prosecutor, or Judge within a maximum of 3 (three) days from the determination. After receiving the determination, the Investigator issues a determination to terminate the investigation or the Public Prosecutor issues a determination to terminate the prosecution.<sup>27</sup>

Example of Legal Facts at the Kendal District Attorney's Office related to the mechanism for terminating prosecution in cases of Child Crimes based on restorative justice, as on Tuesday, March 21, 2023 in the Diversion Room of the Kendal District Attorney's Office, diversion was carried out at the Prosecution level involving a Child in Conflict with the Law/Child Perpetrator with the initials DSHP who had violated the provisions of Article 362 of the Criminal Code with a case position that began on Wednesday, March 8, 2023 at around 01.00 WIB when Child DSHP passed Kp. Pandean, Krajankulon Village, Kaliwungu District, Kendal Regency, precisely in front of one of the cellphone counters because the Child wanted to urinate in the hallway to the left of the cellphone counter, and the Child saw that there was a cellphone counter door in the hallway. Furthermore, after urinating, the Child's intention arose to enter the cellphone counter and take the cellphone through the door in the hallway. Then using both hands, the Child pressed the top door made of white iron which was not locked, the top door was open, and the Child managed to enter the cellphone counter through the door in the hallway. After successfully entering, the child took several cellphones from the cellphone counter and put them in the pants he was wearing and covered them with the yellow jacket he was wearing. After successfully taking several cellphones, the child then left the cellphone counter.<sup>28</sup>

The Diversion Agenda of the above case was attended by Budi Sulistyo, SH, MH as Head of General Crimes Section of the Kendal District Attorney's Office, Hafidz Listyo K, SH as Public Prosecutor Diversion Facilitator, Endang Iwan, SH as Investigator of the Kendal Police, Octaria Putri Maldini as Representative of BAPAS Semarang, Arif Nurrokhman, AMpd as Representative of UPTD PPA

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<sup>26</sup>Ibid, Article 11.

<sup>27</sup>Ibid, Article 12.

<sup>28</sup> <https://kejari-kendal.kejaksaan.go.id/index.php/2023/03/30/keberhasilan-kejaksaan-negeri-kendal-dalam-pelaksanaan-diversi-perkara-tindak-pidana-yang-dilaksana-oleh-anak/>

Kendal, Sukadi as Community Leader, Hariyanto as Parent of the Child, and Muhammad Rizqi Ikhwan as Victim.<sup>29</sup>

The result of the restorative justice mechanism through Diversion in the child crime case was a peace agreement between the victim and the DSHP Child and the Child's parents, and the recommendation from BAPAS / litmas was to stop the prosecution on condition that job training be carried out for the child at the Temanggung Central Java Center which then obtained the Kendal District Court Decree No. 1 / Pen.Div / 2023 / PN Kdl. dated March 24, 2023.<sup>30</sup>

Associated with the theory of punishment, the purpose of punishment itself is to prevent and overcome the problem of crime in the sense of controlling crime so that it does not exceed the limits of community tolerance, where in the Juvenile Criminal Justice System it is mandatory to prioritize the restorative justice approach, and diversion must be attempted with the aim of achieving peace between the victim and the child, resolving children's cases outside the judicial process, preventing children from being deprived of liberty, encouraging society to participate, and instilling a sense of responsibility in children.<sup>31</sup> Therefore, according to the author, the mechanism for terminating the prosecution of child criminal cases which is the authority of the Prosecutor based on restorative justice should be carried out because this has also become a mandate of the laws and regulations that regulate it.

### **3.3. Concept of Policy on Prosecutor's Authority in Terminating Prosecution of Child Criminal Cases Based on Restorative Justice in the Future**

In its implementation, the prosecutor's authority to stop the prosecution of child criminal cases based on restorative justice is certainly not without obstacles, some of which are:<sup>32</sup>

1) The authority of the Prosecutor contained in the Criminal Procedure Code and Law Number 11 of 2021 concerning the Prosecutor's Office does not experience obstacles to its implementation in enforcing the law in the criminal justice system. However, regarding the termination of prosecution based on restorative justice, especially regarding the duration of peace efforts, namely 14 days from the handover of responsibility for the suspect and evidence or stage 2 as stated in Article 9 of the Attorney General's Regulation Number 15 of 2020, it

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<sup>29</sup>Ibid.

<sup>30</sup>Ibid.

<sup>31</sup>Ismail Iskandar, Faisal Abdullah, Ulil Amri, Besse Astuti, The Criminalization System for Children in Conflict with the Law: Reviewed from the Purpose of Criminalization, Papua law journal, Vol 8 No 2, 2024.

<sup>32</sup>Nadia Teresia Simanjutak and Herlina Manullang, Challenges Faced by Prosecutors in Prosecuting Child Cases, Republica Law Journal, Faculty of Law, Lancing Kuning University, December 2024.

has the potential to be an obstacle because in the case taken by the researcher, the time used was exactly 14 days.

2) The process of terminating the prosecution of juvenile criminal cases carried out through Diversion as a way to implement the concept of restorative justice is still considered something new for prosecutors. Due to the complicated procedures, in handling cases prosecutors prefer not to carry out diversion efforts.

3) The lack of expertise possessed by a prosecutor to be a facilitator in handling cases of children in conflict with the law, requires expertise from child prosecutors who can understand and comprehend the values in applying the concept of diversion that is oriented towards a restorative justice approach.

4) For the victims, sometimes they still feel dissatisfied with the settlement through diversion because they think that diversion only sides with the perpetrators. This also reflects that the settlement through diversion cannot be considered to be able to implement the concept of restorative justice at the level of terminating the prosecution of child criminal cases which is the authority of the prosecutor.

From the several obstacles above, of course improvements are needed in the future, because there are several things that are felt not to reflect the existence of real justice that is realized. As in reality, restorative justice through the Diversion method will encourage the realization of welfare and good interests for children both as perpetrators and as victims. This is in line with the values of humanity in the 2nd principle and the values of deliberative democracy in the 4th principle.<sup>33</sup>

In line with the above, in relation to the Pancasila theory of justice, it has a broad meaning so that in this case it does not only include social justice, but also justice in exchange and justice in sharing. The characteristics of justice based on Pancasila are the values of justice in the form of principles of justice, fulfilling several principles or principles that include the principle of justice based on the Almighty God. Upholding justice based on justice from God, the principle of Pancasila justice prioritizes human rights and humanizes humans as social beings whose justice must be protected, the principle of Pancasila justice upholds the value of unity and oneness in order to create a conducive atmosphere for the nation that provides justice for Indonesian citizens, the principle of Pancasila justice adheres to the principle of deliberation for consensus by means of representation in order to create justice for citizens in expressing their respective

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<sup>33</sup>Budiyono, Setya Wahyudi, Dwi Hapsari Retnaningrum, Compatibility of Restorative Justice with Pancasila Values in the Juvenile Criminal Justice System, *Pancasila: Jurnal Keindonesiaan*, Vol 4 No 1, April 2024.

opinions, and the principle of Pancasila justice provides justice for all citizens without exception in accordance with their rights.

Therefore, in the concept of the policy of the authority of the prosecutor in terminating the prosecution of child criminal cases based on restorative justice in the future, it should be emphasized by regulating complex authority in the Laws and Regulations that are higher in position than the position of the Regulations issued internally by the relevant Institution in this case the Attorney General's Regulation related to terminating prosecution based on restorative justice, so that later it will produce checks and balances in its implementation which later from the realization of restorative justice will also illustrate how to realize the goals of justice as the justice aspired to by the Indonesian state, namely Pancasila Justice which contains justice with the values contained in Pancasila as the foundation of the Indonesian state.

#### 4. Conclusion

The authority of the prosecutor in terminating the prosecution of juvenile criminal cases based on restorative justice is guided by the Attorney General's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice and also by considering Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The mechanism for terminating prosecution in juvenile criminal cases based on restorative justice is to seek a settlement process with diversion as a path to follow from the concept of restorative justice. The concept of the policy of the prosecutor's authority in terminating prosecution in juvenile criminal cases based on restorative justice in the future it should be emphasized by regulating complex authority in Legislation which has a higher position than the position of the Regulation issued internally by the relevant Institution, in this case the Attorney General's Regulation regarding the termination of prosecution based on restorative justice.

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