

The Effectiveness of Restorative Justice in Investigations of Cases of Violence by Children at the Cirebon City Police

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Abstract. *Cases of violence between children often occur, this is because the emotional maturity of children is not yet fully mature so that social pathological problems often occur that make children often commit violence between each other. This makes children often face the law therefore children need mental protection and intellectual growth guarantees, the concept of restorative justice through diversion is needed, however, diversion has not been optimally implemented, especially in the Cirebon City area. The type of research used in this study is descriptive analytical legal research. Based on the results of the study, it is known that the process of investigating child criminal cases through diversion as an effort to realize restorative justice at the Cirebon City Police is not optimal, this is because 95 cases of violence committed by children were resolved at the Cirebon City District Court in 2024. Constraint in the process of investigating cases of child criminal acts through restorative justice at the Cirebon City Police in the form of The lack of public knowledge regarding the resolution of criminal cases through restorative justice; the lack of public awareness of reconciliation through restorative justice in cases of minor assault; and the lack of comprehensive and specific regulation of the resolution of hate speech crimes through restorative justice within government regulations, both central and regional.*

Keywords: *Children; Diversion; Effectiveness; Justice; Restorative.*

1. Introduction

Children have specific rights that are different from the rights of adults, this is because children are very vulnerable to violence, mistreatment and exploitation.¹ Various criminal cases involving children who have to face the law are actual and factual problems as social and criminal symptoms that have caused

¹Nur Rochaeti, "Implementation of Restorative Justice and Legal Pluralism in the Juvenile Criminal Justice System in Indonesia," *Journal of Legal Issues*, Vol. 44, No. 2, April 2015, p. 150

concern among parents in particular and society in general as well as law enforcement.²

The types of crimes and criminal acts frequently committed by children include theft, drug abuse, fighting, sexual harassment, traffic violations, and assault, including murder and motorcycle gang crime (begal) involving children. Furthermore, children face legal challenges in numerous cases as victims of violence, including physical violence, psychological violence, sexual harassment, and neglect.³

The current Juvenile Criminal Justice System, based on Law Number 11 of 2012, still requires formal procedures similar to those for adults, including police investigations, prosecutions by the prosecutor's office, and court trials. This lengthy formal process has given rise to several ideas from both scientists and law enforcement officials to seek alternative solutions for children, maximizing their distance from the formal justice system. Children, regardless of their circumstances, must continue to grow and develop as they should, and children in conflict with the law must receive philosophical justice, including shifting the legal approach from a retributive to a restorative one.⁴

According to the Director of Legal Analysis of Bappenas, Diani Sadia Wati, the reasons for changing Law Number 3 of 1997 concerning Juvenile Courts to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) were due to several things as follows: First, the failure of the juvenile criminal justice system to produce justice; Second, the rate of criminal acts and recidivism of children has not decreased; Third, the judicial process has failed to treat children; Fourth, the courts have used more imprisonment (imprisonment) than other forms of sanctions; and Fifth, an overly legalistic approach.⁵

To maintain dignity and honor, children have the right to receive special protection, especially legal protection in the judicial system as a consequence of Indonesia as a state party to the Convention on the Rights of the Child which

²Ulang Mangun Sosiawan, "The Perspective of Restorative Justice as a Form of Protection for Children in Conflict with the Law", *DE JURE Legal Research Journal*, Vol.16, No.4, December 2016, p.428

³Sri Endah Wahyuningsih, Legal Protection for Children as Victims of Criminal Acts Against Morality in Current Positive Criminal Law, *Journal of Legal Reform* Volume III No. 2 May - August 2016, p. 173.

⁴Bambang Sukoco, Lecturer at the Faculty of Law, Muhammadiyah University of Surakarta, 2015, *Restorative Justice Approach as an Effort to Resolve Cyber Crimes with Child Perpetrators*, paper compiled as an assignment for the criminal law and development of information technology course, page 16

⁵<http://www.bappenas.go.id/berita-dansiaran-pers/indonesia-akan-berlaksana-uuno-11-tahun-2012-tentang-sistem-peradilanpidana-anak/>, accessed on 29 October 2015.

regulates the principles of legal protection for children, having an obligation to provide special protection for children who are in conflict with the law.

Diversion in Article 1 number 7 of Law Number 11 of 2012 concerning the Juvenile Justice System is a process of resolving cases of children in conflict with the law, from the criminal justice process to a process outside the criminal justice system, with deliberations involving children, parents, and community counselors, to prevent children from being deprived of liberty, intended to keep children away from the criminal justice process. The Criminal Justice System in Indonesia is considered not to be on the side of child perpetrators of crimes or children in conflict with the law, the current criminal law products are considered to be rooted in the existing social structure of society in this case the criminal law products regarding children only regulate victims of criminal crimes. Meanwhile, perpetrators of crimes from among children have almost never received fair legal treatment and on average children who are caught in criminal cases are thrown into prison, even worse, many prisons mix adult inmates with child inmates.⁶

During the investigation process, children in conflict with the law are forced to follow procedures commonly followed by adults. This situation places children under duress, forcing them to undergo the examination process that has become customary for police officers in conducting investigations and criminal cases.

The reason for imprisonment, judges more often use judicial policies and discretion, rather than sociological considerations, not only that, many judges ignore community research, even though there are quite a few social structures in Indonesia that experience social pathology and panels of judges ignore community research from BAPAS.⁷

Children who are still minors still have unstable natures and are easily uncontrolled by circumstances from within themselves and their surrounding environment. In fact, in society, children who are in conflict with the law still lack the ability to control themselves against the negative influence of their social environment outside the home, lack of supervision from both parents so that they are influenced by friends in the surrounding environment, in carrying out actions they are still classified as unstable.⁸ Distrust of prisons or ineffective child development, the author concludes that children who are in conflict with the law need to be diverted at all levels so that the child still has a long future and still needs guidance from both parents, if diversion is not carried out then many children will go to prison or development and many children's rights guaranteed

⁶Gatot Supramono, 2007, *Juvenile Court Procedure*, Jakarta: Djambatan, page 1.

⁷Solopos.com, 2016, Friday, May 20 2016, 05.00 WIB: 90% of children facing the law end up in prison, in <http://www.solopos.com/2016/05/20/90-anak-berhadapan-hukumberakhir-di-penjara-721069>

⁸M Ghufuran H. Kordi K, 2015, *Disobedience to Children Reflections on Children's Rights & Protection*, Yogyakarta: Pustaka Baru Press, p. 238.

by the law on child protection are not fulfilled, so that it will cause children to be psychologically disturbed and make children stupid and easily colonized by others and will have a big impact on the child's growth when they are adults, it could be that the child when they are adults becomes a recidivist.

Various existing explanations show that the law has contradicted its original purpose. In relation to legal objectives, Sri Endah stated that:⁹

If what is aspired to by national law is the Pancasila legal system, then it is appropriate to study and develop laws that contain Pancasila values, meaning laws that are oriented towards the value of the Almighty God, laws that are oriented towards the values of Just and Civilized Humanity, laws that are based on the value of Unity, and laws that are imbued with the values of Democracy Led by Wisdom in Deliberation/Representation and the values of Social Justice. For all Indonesian people.

In its concept, child protection not only includes the protection of their rights but also relates to the development of the younger generation, taking into account that children are not individualists because children are still very dependent on adults, especially adults they know, in addition to the fact that children are not yet able to support themselves. This situation clearly contradicts the goals of the rule of law in the concept of development law. Therefore, in its development, the law should be able to realize justice for children in order to support a child's life that is guaranteed, beneficial, and has legal certainty.¹⁰

The concept of a state of law (nomocracy) has guaranteed the principle of equal rights before the law (before the law), so the concept of development law which prioritizes openness (transparency) is commensurate with the offer of forming law as a consensus involving the public sphere, the concept of a state of law which prioritizes deliberative democracy.¹¹

2. Research Methods

The type of research used in this study is descriptive analytical legal research. Descriptive analytical legal research is a method that serves to describe or

⁹Sri Endah Wahyuningsih, *Principles of Criminal Individualization in Islamic Law and Indonesian Legal Reform*, UNDIP, Semarang, 2013, p. 68.

¹⁰Nur Cahyanti, Budi Raharjo, and Sri Endah Wahyuningsih, *Sanctions Against Notaries Who Commit Criminal Acts According to Statutory Regulations in Indonesia*, *Jurnal Akta*, Vol 5 No 1 March 2018, p. 91.

¹¹Sri Endah Wahyuningsih, *Criminal Law Enforcement Policy on Money Laundering Prevention in the Context of Criminal Law Reform in Indonesia*, *Journal of Legal Reform* Volume III No. 2 May - August 2016, p. 47.

illustrate the object being studied through collected data or samples as they are without conducting analysis or drawing general conclusions.¹²

3. Results and Discussion

3.1. The Development of the Restorative Justice System in Indonesia

The concepts of diversion and restorative justice have become increasingly well-known through seminars that foster enthusiasm and a desire to explore these two concepts in greater depth. In 2004, a discussion was held in Jakarta among law enforcement officials involved in the juvenile criminal justice system to discuss the best steps in handling child criminals. The discussion aimed to find the best solution to protect children. This seriousness was first demonstrated by the Bandung District Court by establishing a special detention room and waiting room for children on August 13, 2004. Seeing this seriousness of law enforcement officials in the criminal justice system in Bandung, UNICEF designated Bandung as a pilot project for the implementation of the concepts of diversion and restorative justice in Indonesia.¹³

Diversion and restorative justice programs have expanded rapidly across the globe in a short time. The starting point for reforming juvenile justice systems in several countries, and the reasons cited for child offenders, have led to the adoption of a new concept: restorative justice. This concept is relevant for transforming all parts of the criminal justice system to an appropriate process. This means that every level of justice or law enforcement agency within the criminal justice system can be transitioned to restorative justice processes.¹⁴In Indonesia itself, with the enactment of Law Number 11 of 2012 concerning the Child Criminal Justice System, the concept of diversion and restorative justice is implemented as a form of resolving criminal cases committed by children as perpetrators and making criminal punishment an ultimum remedium or last resort used when an appropriate solution cannot be achieved through both parties. this concept.¹⁵

3.1. The Effectiveness of Restorative Justice in Investigations of Violent Crimes Against Children at the Cirebon City Police Department

The application of restorative justice emphasizes the perpetrator's genuine willingness to repair the harm they have caused as a form of responsibility. Reparations must be proportionate, taking into account the rights and needs of the victim. To reach an agreement between the parties, namely the victim and the perpetrator, informal dialogues such as mediation and deliberation are necessary.

¹²Sugiono, Quantitative, Qualitative and R&D Research Methods, Alfabeta, Bandung, 2009, p. 29.

¹³Hadi Supeno, Restorative Justice: A Model of Future Indonesian Juvenile Justice, Diponegoro University, Semarang, 2006, p. 211.

¹⁴*Loc, cit.*

¹⁵*Loc, cit.*

The active involvement of relevant and interested community members is crucial in this effort to ensure the child's reintegration into society. Restorative justice offers the best solution for resolving juvenile crime cases by prioritizing the root cause of the crime. A key resolution is repairing the damage or loss caused by the crime.

Restorative Justice practices and programs are reflected in its objectives which address criminal acts by:¹⁶

- 1) *Identifying and taking steps to repair harm* (identify and take steps to repair the loss/damage);
- 2) *Involving all stakeholders* (involving all interested parties);
- 3) *Transforming the traditional relationship between communities and their government in responding to crime* (changing something that has been traditional regarding the relationship between society and government in responding to crime).

The number of cases filed at the Cirebon City District Court related to cases of violence committed by children was 78 cases out of cases involving 117 suspects, of which 95 cases were brawls, while 8 cases were bullying with violence.¹⁷Based on existing data, particularly in West Java, it is clear that diversion is rarely used in the legal process for children involved in violence cases. Criminal punishment for children can have significant psychological impacts, both short-term and long-term, including fear, loss of self-confidence, and even trauma. Lengthy legal processes and prison sentences can trigger behavioral problems, depression, and even the risk of suicide. Furthermore, punishment can damage family relationships, cause deprivation, and increase the risk of social stigma. Police Commissioner Joni Surya stated that the impact of criminal punishment on children can include:¹⁸

a. Fear and Loss of Self-Confidence:

Children in conflict with the law or who have been punished may feel afraid of law enforcement officials, legal institutions, and even their parents or other adults. This fear can hinder social and emotional development and lead to a loss of confidence in their own abilities.

b. Trauma:

¹⁶Mc Cold and Wachtel, Restorative Practices, (The International Institute for Restorative Practices (IIRP), 2003), p. 7.

¹⁷Interview with Police Commissioner Joni Suryaas Head of the Cirebon Police Samapta Unit, April 4, 2025.

¹⁸Interview with Police Commissioner Joni Suryaas Head of the Cirebon Police Samapta Unit, April 4, 2025.

Severe legal proceedings, especially those involving violence or imprisonment, can cause serious psychological trauma. This trauma can lead to behavioral problems, depression, anxiety, and difficulties in daily life.

c. Behavioral Problems:

Harsh punishment can cause children to experience behavioral problems, such as becoming more aggressive, behaving illegally, or even isolating themselves.

d. Depression and Anxiety:

Children who come into conflict with the law or experience punishment, especially imprisonment, are at risk of developing depression and anxiety. This depression and anxiety can hinder cognitive and social development and lead to difficulties in forming social relationships.

e. Social Stigma:

Criminal penalties can cause children to experience social stigma, which can hinder their opportunities for employment, education, and a normal social life.

f. Damage to Family Relationships:

Frequent or harsh punishment can damage the relationship between children and parents, cause communication breakdowns, and trigger conflict within the family.

g. Deprivation:

Prison sentences can lead to deprivation, which is the lack of opportunities to obtain basic needs such as education, health care, and social support.

The various negative impacts of criminal sanctions on children demonstrate the importance of implementing diversion for children involved in cases of violence. The provisions of Articles 5, 7, and 9 of Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System clearly state that diversion, as an effort to realize restorative justice in the investigation of cases of violence perpetrated by children, is a legally mandated obligation. However, in reality, according to Police Commissioner Joni Surya, most parents of victims of acts of violence between children prefer to pursue legal action through the courts, so that the perpetrators, who are still children, are expected to receive the harshest possible punishment. This is especially true in cases of violence that result in death.

4. Conclusion

The investigation process for child criminal cases through diversion as an effort to realize restorative justice at the Cirebon City Police is not yet optimal, this is because 95 cases of violence committed by children were resolved at the Cirebon

City District Court in 2024. Constraint in the process of investigating cases of child criminal acts through restorative justice at the Cirebon City Police in the form of The lack of public knowledge regarding resolving criminal cases through restorative justice; the lack of public awareness of the need for reconciliation through restorative justice in cases of minor assault; and the lack of comprehensive and specific regulation of hate speech through restorative justice within both central and regional government regulations. Possible solutions include: For the government, it is necessary to emphasize in Article 7 of the Republic of Indonesia Law Number 11 of 2012 concerning the Juvenile Criminal Justice System that the type of conditions for diversion is not only based on the child's actions which constitute a crime that is threatened with 7 years of imprisonment but also needs to look at the aspects of the child's criminal responsibility and the child's future situation. For law enforcement, it is necessary to emphasize to the parties in cases of violence committed by children that the legal process through diversion for children needs to be gone through first. For the community, there is a need for legal counseling about the importance of diversion, especially in cases of violence committed by children.

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