

Legal Analysis of the Settlement of Child Theft Cases Through Diversion in Achieving Restorative Justice

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Abstract. *This study aims to determine and analyze the settlement of theft cases by children through diversion in achieving restorative justice. To determine and analyze the weaknesses of the settlement of theft cases by children through diversion in achieving restorative justice. This writing is a normative juridical type using the approach method of Law, cases, research specifications are descriptive analysis, secondary data sources are taken from primary legal materials, secondary legal materials, tertiary legal materials, data collection methods through literature studies and analysis techniques using qualitative. The study shows that the settlement of theft cases by children through diversion must be attempted at the level of investigation, prosecution and examination of children's cases in court by prioritizing the restorative justice approach which is threatened with imprisonment under 7 (seven) years and is not a repetition of the crime according to the mandate of Article 7 of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System. This norm, if associated with sanctions for criminal acts of theft with aggravation or violence has a heavier threat (7-20 years), will provide different treatment in terms of handling diversion for cases of children in conflict with the law. Weaknesses in the legal substance include the provisions of the Diversion requirements regarding the limitation of criminal threats under 7 years in Article 7 of the SPPA Law which is based on the application of articles during investigation and prosecution, allowing for subjective views. Weaknesses in the legal structure include the frequent occurrence of several legal regulations that cannot be implemented properly because there are several law enforcement officers who do not implement a legal provision properly. Weaknesses in the legal culture, namely the culture of society in Indonesia sees a criminal act as a reprehensible act. To maximize restorative justice for children, the application of the diversion concept can also be applied to cases of children who are threatened with imprisonment of more than 7 (seven) years. The benefits behind this idea include reducing the level of conflict in law enforcement in the community in accordance with the objectives of diversion in the SPPA Law.*

Keywords: *Diversion; Justice; Restorative.*

1. Introduction

Children as part of the development of quality Human Resources has been established by the 1945 Constitution of the Republic of Indonesia Article 28B paragraph (2) which mandates that every child has the right to live, grow and develop and has the right to protection from violence and discrimination. However, today we can see that hundreds of cases of children in conflict with the law still occur every year and tend to increase.¹

In the context of the juvenile criminal justice system, a child refers to a child involved in a conflict with the law. Criminal cases involving children are handled differently from adult cases and require a specific approach, as regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.²

In an era of increasingly globalized science, economic growth, and technological advancements, the development of children has negatively impacted their development, leading to a moral crisis in society, potentially leading to an increase in children coming into conflict with the law. Children in conflict with the law are victims of social conditions and problems within their families and communities that force them into conflict with the law. One such example is theft.

The criminal act of theft is regulated in Law No. 1 of 2023 concerning the Criminal Code, which replaces the Dutch legacy Criminal Code. To avoid disparities in law enforcement, duplication of criminal regulations, and negative impacts on legal certainty and the sense of justice in society regarding criminal provisions in every law outside of Law No. 1 of 2023 concerning the Criminal Code, Law No. 1 of 2026 concerning criminal adjustments was formed as a bridge to harmonize or align all criminal threats in Indonesia to align with the National Criminal Code.

Theft in Law Number 1 of 2023 concerning the Criminal Code is regulated in Articles 476 to 481. Ordinary theft is punishable by a maximum of 5 years imprisonment or a category V fine, while aggravated or violent theft carries a more severe threat (7-20 years), including theft of sacred objects, livestock, or using aggravated means.

To avoid the negative effects or impacts of the criminal justice process on children, the United Nations Standard Minimum Rules for the Administrator of Juveniles

¹Anik Iftitah, "Legal Accountability of Children in Serious Crimes: Approaches, Impacts, and Implications in the Juvenile Justice System," *Birokrasi: Journal of Law and Constitutional Studies*, Vol. 1 No. 2, pp. 152–167

²Ariyunus Zai, "Legal Protection for Children in Conflict with the Law in the Juvenile Justice System (A Study in the Jurisdiction of the Nias Police Department)," *Mercatoria Journal*, Vol. 4 No. 1, 2011, p. 12.

(The Beijing Rules) are being developed.³has provided guidelines as an effort to avoid these negative effects, namely by giving authority to law enforcement officers to take policy action in handling or resolving child offender problems without taking formal routes, including stopping or not continuing or releasing them from the court process or returning or handing them over to the community and other forms of social service activities. This action is called diversion.⁴

The concept of restorative justice as regulated in Law Number 11 of 2012 concerning the juvenile justice system provides space for protection and respect for the interests and concerns of both victims and perpetrators.⁵According to Article 1 number 6 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, it is stated 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 just resolution by emphasizing restoration to the original state, and not revenge."

Furthermore, Article 5 paragraph (1) states that

"The Juvenile Criminal Justice System must prioritize the Restorative Justice Approach".

The restorative justice referred to in the Juvenile Criminal Justice System Law is the obligation to implement diversion. Wahyudi stated that diversion is a step to shift the handling of juvenile delinquent behavior from the conventional juvenile justice system to social services, with the goal of avoiding the negative impacts of the judicial process that can affect the child's psychology.⁶

The diversion process must be attempted at every stage of criminal justice, starting from the investigation, prosecution, or examination stage in court.⁷The implementation of diversion in Indonesia has requirements that serve as guidelines for law enforcement officials. The requirements for diversion are listed in Article 8 of the SPPA Law. Furthermore, Article 9 of the SPPA Law also contains provisions regarding the implementation of diversion.

Every implementation of diversion at the investigation, prosecution and trial levels must be recorded in the form of a diversion report, which explains the contents of the diversion, whether the diversion was successful or failed. The diversion report

³Kristiawan Putra Nugraha, "Legal Protection and Human Rights of Child Workers: A Study of Implementation and Challenges in the Context of the Child Protection Law," *IN RIGHT: Journal of Religion and Human Rights*, Vol. 12 No. 2, 2023, pp. 191-218

⁴R. Wiyono, *Juvenile Criminal Justice System in Indonesia*, Sinar Grafika, Jakarta, 2016, pp. 45-46

⁵Iwa Mashadi and Gunarto, 2018, *Application of Restorative Justice Against Crime Committed by Children in Cirebon Police*, *Jurnal Daulat Hukum*, Volume 1 Issue 3, Unissula, p. 743

⁶M. Nasir Djamil, *Children Are Not to be Punished*, Sinar Grafika, Jakarta, 2013, p. 132

⁷Dahlan Sinaga, *Law Enforcement with a Diversion Approach*, Nusa Media, Yogyakarta, 2017, p. 84.

is also regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

In relation to this issue, there are varying judges' decisions regarding the sentencing of children who commit theft. Some examples of criminal sanctions imposed include:

- 1) Lhokseumawe District Court Decision Number 1/PID.SUS-ANAK/2024/PN LSM, the child who committed theft was sentenced to 1 (one) year of correctional detention at the Banda Aceh Special Children's Correctional Institution (LPKA);
- 2) Purwokerto District Court Decision Number 1/PID.SUS-ANAK/2023/PN PWT, the child who committed theft was sentenced to 6 (six) months in prison;

Although the law regulates child protection, effective protection depends not only on the law but also on the joint efforts of families, communities, and the state to create a conducive environment for children. Therefore, legal protection for children in conflict with the law, particularly those who are repeat offenders in aggravated theft, still needs to be improved to ensure the fulfillment of children's rights.

Based on the description above, the author will explain the problem formulation: first, the resolution of child theft cases through diversion in achieving restorative justice. Second, the weaknesses of the resolution of child theft cases through diversion in achieving restorative justice.

2. Research Methods

This research is a normative juridical type using the statutory approach method and case studies, the research specifications are descriptive analysis, data sources are obtained from secondary data taken through primary legal materials, secondary legal materials, tertiary legal materials, data collection methods through literature studies and analysis techniques using qualitative.

3. Results and Discussion

3.1 Resolving Cases of Theft by Children Using Diversion in Achieving Restorative Justice

The author analyzed court decisions, including the Lhokseumawe District Court Decision Number 1/PID.SUS-ANAK/2024/PN LSM, where a child who committed theft was sentenced to 1 (one) year of correctional detention at the Banda Aceh Special Children's Development Institution (LPKA) and the Purwokerto District Court Decision Number 1/PID.SUS-ANAK/2023/PN PWT, where a child who committed theft was sentenced to 6 (six) months in prison.

In making decisions, judges must recognize that the law cannot be separated from the societal context in which it applies. Therefore, in exercising judicial power, a judge has an obligation to interpret the law in order to achieve justice as perceived by the community. This interpretive process is carried out to find or formulate laws that align with the values of justice that exist within that community. Judges are part of society and cannot escape the influence of their social environment in carrying out their duties.⁸

The judge's considerations in a criminal case decision are the arguments that serve as the basis for the panel of judges to formulate their considerations before making and deciding the case. Before a judge makes and decides a case, a legal analysis is required, which is then used as the basis for issuing a verdict for the defendant. Many factors form the basis for a judge's decision before arriving at a final verdict. A judge must go through a series of comprehensive deliberation stages. These stages encompass various aspects that will be carefully analyzed before the judge makes a decision and issues a sentence, including the following:⁹

- a) The decision regarding the defendant's case is whether he or she committed the alleged act. The judge will carefully consider all evidence and arguments presented to determine whether the defendant is proven to have committed the alleged act.
- b) The legal decision concerns whether the defendant's actions meet the elements of a crime and whether the defendant is found guilty and subject to criminal penalties. The judge will conduct an in-depth legal analysis to determine whether the defendant's actions meet the elements stipulated in criminal law.
- c) The decision regarding the punishment to be imposed if the defendant is found guilty and liable to be punished. The judge will consider relevant factors such as the severity of the crime, the impact of the defendant's actions on the victim, and the defendant's personal circumstances to determine the appropriate type and severity of punishment.

Criminal sanctions are the inevitable consequences that occur when someone commits an act prohibited by criminal law. These consequences can include imprisonment, fines, or other legal action.¹⁰ Children who are in conflict with the law can be subject to sanctions in the form of criminal penalties or actions in accordance with applicable statutory provisions.

Based on Decision Number 1/Pid.Sus-Anak/2024/PN Lsm and Decision Number 1/Pid.Sus-Anak/2023/PN Pwt. The panel of judges in determining this decision

⁸Arbijoto, *Judicial Freedom: A Critical Analysis of the Role of Judges in Exercising Judicial Power*, Jakarta: Diadit Media, 2010, p. 28.

⁹Lilik Mulyadi, *Judicial Power*, Surabaya: Bina Ilmu, 2007, p. 136.

¹⁰Andi Hamzah, *Criminal Law Terminology*, Jakarta: Sinar Grafika, 2009, p. 138.

used the theory of restorative justice in which children are given punishment not only as retribution or deterrence but also to rehabilitate the perpetrator so that they can reintegrate into society as a better individual and repair the losses experienced by the victim. In the juvenile criminal justice system, placement in a Special Child Development Institution (LPKA) and the provision of formal and informal education rights reflect a focus on development, behavioral change, and social reintegration.

This means that the decision rendered to the child fulfills the child's rights as stipulated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. Therefore, the judge's decision is deemed appropriate as punishment for the child as the perpetrator of the crime of theft.

3.2 Weaknesses in Resolving Cases of Theft by Children Using Diversion in Achieving Restorative Justice

According to M Friedman, the legal system includes three components or sub-systems, namely (i) legal structure, (ii) legal substance, and (iii) legal culture.¹¹ According to Lawrence M. Friedman, these three elements of the legal system are determining factors in the effectiveness and success of law enforcement. Legal structure concerns law enforcement officials; legal substance encompasses the legal instruments; and legal culture is the living law adopted in a society.

Lawrence M Friedman's analysis of the legal system theory regarding the effectiveness of resolving cases of theft by children through diversion is as follows:

a. Weaknesses of Legal Structure

The implementation of diversion for children in conflict with the law is motivated by the desire to avoid the negative effects on the child's psyche and development due to their involvement with the criminal justice system. This diversion effort or diversion idea is the best solution that can be used as a formula in resolving several cases involving children as perpetrators of crimes. The authority to carry out diversion rests with law enforcement officials at each level of examination, namely at the level of investigation, prosecution, and examination of children's cases in district courts, as stipulated in Article 7 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). Specifically at the prosecution level, juvenile criminal justice procedures are regulated in Chapter III Part Four Articles 41 and 42 of the SPPA Law.¹²

¹¹Jimly Asshiddiqie in, *Dialectics of Renewal of the Indonesian Legal System*, Secretary General of the Judicial Commission of the Republic of Indonesia, Jakarta, 2012, p. 19.

¹²Marlina, *Juvenile Criminal Justice in Indonesia: Development of the Concept of Diversion and Restorative Justice*, Refika Aditama, Bandung, 2009, p. 198

The Juvenile Justice and Child Protection Law (SPPA) regulates diversion, which serves to prevent children in conflict with the law from being stigmatized by the judicial process they must undergo. This is in accordance with the UN Resolution on the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules). Diversion is the granting of authority to law enforcement officers to take discretionary actions in handling or resolving child offender issues without resorting to formal channels, including stopping, continuing, or releasing them from the criminal justice process, returning them to the community, and other forms of social service activities.¹³

The principle of legal protection for children must be in accordance with the Convention on the Rights of the Child as ratified by the Government of the Republic of Indonesia with Presidential Decree Number 36 of 1990 concerning the Ratification of the Convention on the Rights of the Child. Law Number 3 of 1997 concerning Juvenile Courts, previously used as a basis for the implementation of the judicial process for children who commit crimes, is intended to protect and care for children who are in conflict with the law so that children can face their long future and provide opportunities for children so that through guidance they will obtain their identity to become independent human beings, useful for themselves, their families, communities and the nation and state.

However, in practice, children are positioned as objects, and the treatment of children in conflict with the law tends to be detrimental to them. Furthermore, the Juvenile Court Law is no longer in line with the legal needs of society and does not comprehensively provide special protection to children in conflict with the law. This is the reason why the government considered issuing the Juvenile Justice and Child Protection Law, which regulates the entire process of resolving cases of children in conflict with the law, from the investigation stage to the guidance stage after serving their sentence.¹⁴

The implementation of diversion as protection for children in conflict with the law is implicitly regulated in the Convention on the Rights of the Child which has been ratified by the Government of Indonesia with Presidential Decree No. 36 of 1990 concerning the Ratification of the Convention on the Rights of the Child. Based on Article 37 of the Convention on the Rights of the Child, it is stated that the arrest, detention or punishment of children will be in accordance with the law and will be used only as a last resort and for the shortest and most appropriate period. This is further stated in Article 40 paragraph (3) letter b of the Convention on the Rights of the Child. "States Parties will strive to improve the establishment of laws, procedures, powers and institutions that can be applied specifically to children suspected, accused or recognized as having violated the criminal law, and in

¹³Ibid

¹⁴Yati Sharfina Desiandri, "Diversion for Children in Conflict with the Law at the Investigation Stage," *USU Law Journal*, Vol. 5 No. 1 (January 2017), pp. 147-157

particular, where appropriate and desirable, measures to deal with such children without imposing legal action, provided that their human rights and necessary legal protections are respected."¹⁵

Diversion is not simply about reducing sentences for children. The purpose of implementing diversion is to protect the rights of children as perpetrators of crimes. Diversion can be applied to crimes punishable by less than seven years in prison and not for repeat offenses.

Regarding the regulations explaining this diversion, there are 2 regulations that regulate it, namely Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and Perma Number 4 of 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System. In Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, it is explained that diversion can be carried out for crimes charged with under 7 years in prison. This makes judges as law enforcement officers confused about which is better to use, if the judge uses Perma, it will uphold justice for children, but the judge cannot do it unilaterally because other agencies rarely use this regulation.

Juvenile judges are more guided by the Juvenile Justice System Law than by Supreme Court Regulation No. 4 of 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System. Juvenile judges do this because they observe that other law enforcement agencies are using the Juvenile Justice System Law more. The Juvenile Justice System Law is considered the highest hierarchically, even though Supreme Court Regulation No. 4 of 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System is applicable externally, and also applies to other law enforcement agencies.¹⁶

Other law enforcement officials believe it is inappropriate for Juvenile Justice Judges to use regulations not issued by their institution (the Supreme Court). The police also generally adhere to the Juvenile Justice and Child Protection Law, which regulates more generally and covers all Indonesian citizens. However, if the case in question can be, or is better addressed, by Supreme Court Regulation No. 4 of 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System, the police may use that regulation, but they are more likely to adhere to the Juvenile Justice and Child Protection Law.

The legal function, mentality, and personality of law enforcement officers play a crucial role. If the regulations are sound but the officers' quality is lacking, there is a problem. Often, some legal regulations cannot be implemented properly

¹⁵Joni, M. and Zulchaina Z. Tanamas, *Legal Aspects of Child Protection from the Perspective of the Convention on the Rights of the Child*, Citra Aditya Bakti, Bandung, 1999, p. 69

¹⁶Irwan, "Problems of Implementing Diversion for Child Narcotics Offenders," *Lex Renaissance* No. 3 Vol. 5 July 2020, pp. 525-538

because some law enforcement officers fail to properly implement legal provisions. Therefore, one of the keys to successful law enforcement is the mentality or personality of law enforcement officers. Regarding the quality of law enforcement, particularly in the realm of diversion implementation, weaknesses appear to have significantly impacted the success of diversion law enforcement. In the explanation of the failure of diversion above, the cooperative factor of the child's guardian or victim appears to give rise to the role of a facilitator, namely, the law enforcement officers themselves.

Facilitators are expected to provide counseling, input, and perspectives to persuade the parties to reach an agreement, ensuring a successful process. To provide input, facilitators must possess specialized expertise. These skills can be honed through alternative dispute resolution training. Alternative Dispute Resolution (ARD) is a concept encompassing various forms of dispute resolution other than judicial processes through legally valid means, whether based on a consensus approach or not.

b. Weaknesses of Legal Substance

Every criminal case must go through a resolution process carried out using the criminal justice system, and this also applies to crimes committed by children. The objectives of the Juvenile Criminal Justice System in the Child Protection and Child Protection Law are not explicitly stated, but can be identified from the provisions in the "General Explanation" of the Law, namely:

"...The most fundamental substance in this Law is the explicit regulation of Restorative Justice and Diversion, which is intended to prevent and distance children from the judicial process, thereby avoiding stigmatization of children in conflict with the law and, hopefully, allowing children to return to their social environment normally. Therefore, the participation of all parties is essential in order to realize this. The process must aim to create Restorative Justice, both for children and for victims."

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 just resolution by emphasizing restoration to the original state, and not revenge (Article 1 number 6 of the SPPA Law).

Restorative Justice is regulated in Article 5 of the Juvenile Justice System Law, which states that the Juvenile Criminal Justice System must prioritize a restorative justice approach, including:

- 1) Investigation and prosecution of child crimes are carried out in accordance with legislation, unless otherwise specified in this law;
- 2) Child trials conducted by courts in the general judicial environment; and

3) Guidance, mentoring, supervision and/or assistance during the process of carrying out criminal or criminal action and after serving the criminal or criminal action.

Considering the unique characteristics and traits of children and for the sake of protecting children, discussing cases of children in conflict with the law must see that children's actions have certain motivations and characteristics that are clearly different from adult perpetrators. As stated in the Convention on the Rights of the Child which expressly states that: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration (in all actions concerning children carried out by public or private social welfare institutions, courts of law, government agencies or legislative bodies, the best interest of the child shall be a primary consideration)" (International Convention on the Rights of the Child).

With the best interests of children in conflict with the law in mind, the juvenile criminal justice system has developed a concept known as diversion, which allows for the resolution of criminal cases involving children. Diversion is the transfer of criminal cases from the criminal justice process to an out-of-court process, taking into account the agreement of the perpetrator, the victim, the perpetrator's family, and the victim's family.

Diversion is one way to address the challenges facing children in conflict with the law today. The word "diversion" comes from the English word "diversion," meaning avoidance or diversion. Diversion is an action or treatment to divert a case from a formal to an informal process, or to remove a juvenile offender from the juvenile justice system. This means that not all juvenile delinquency cases must be resolved through formal justice channels, and alternative solutions are available using a justice-based approach in the best interests of the child and with consideration for the victim.

Based on the SPPA Law, the implementation of diversion is regulated in Article 5 paragraph (3) which states that in the Juvenile Criminal Justice System (including investigations, prosecution of juvenile crimes, and trials of juveniles) it is mandatory to strive for Diversion. What is meant by Diversion (according to Article 1 number 7 of the SPPA Law) is the transfer of the settlement of Juvenile cases from the criminal justice process to a process outside the criminal justice system. The Diversion process is carried out through deliberation involving the Child and his/her parents/guardians, the victim and/or parents/guardians, Community Guidance Counselors, and Professional Social Workers based on the Restorative Justice approach (Article 8 of Law Number 11 of 2012).

If legal requirements are met, diversion can be pursued from the Child Investigator level in the Police, or at the Child Prosecutor level in the District Attorney's Office,

or at the examination level in the District Court by the Child Judge. However, even though these requirements and efforts have been made by law enforcement, not all cases involving children in conflict with the law can be resolved through diversion. Many factors and problems become obstacles in seeking diversion. Obstacles in implementing diversion usually occur because the victim's family does not accept the implementation of diversion and considers that diversion does not represent accountability for children who commit crimes and compensation commensurate with the circumstances caused. Another weakness is the provision of diversion requirements regarding the limitation of criminal threats under 7 years in Article 7 of the SPPA Law which is based on the application of the article during investigation and prosecution, which allows for subjective views.

c. Weaknesses of Legal Culture

Legal culture basically includes the values that underlie applicable laws, values which are abstract conceptions regarding what is considered good (so it is adhered to) and what is considered bad (so it is avoided).

Indonesian culture views criminal acts as reprehensible. Therefore, it is natural for these acts to be punished, and in this case, society views "law enforcement officers" as the law itself. Therefore, the criminal acts committed by this child require punishment, especially if the child has committed crimes more than once. This cannot be considered a repeat offense, as this is the first time the child has been reported and prosecuted.

Despite the fact that the child had previously committed repeated thefts, this does not invalidate the requirement of "not a repeat offender" as mandated in Article 7 paragraph (2) letter b of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. However, because the community culture has seen Sidik's actions as repeated crimes, this has influenced the community's assessment of the urgency of terminating the criminal case against the child by transferring it to another process as recommended by the Correctional Center. Diversion, which is expected to be a form of diversion of punishment for children, in its implementation still encounters many inhibiting factors. So the success of diversion has not been able to target all lines of criminal acts committed by children even though the requirements for diversion have been met. This is certainly a regrettable thing considering that the purpose of diversion, which is the realization of protection for children, has not been optimal.

Delinquent children, in this case "children in conflict with the law," are considered criminals and must be isolated from society. This tendency toward marginalization is not without reason, as the number of juvenile crimes in Indonesia is growing and spreading to almost every region.

Every crime must be held accountable by the perpetrator without exception, but sentencing delinquent children, specifically "children in conflict with the law,"

tends to be detrimental to their future mental development. This tendency stems from the stigma attached to the punishment, particularly imprisonment.¹⁷

As a result of this stigma, children will find it difficult to become "good" children. Therefore, a child protection system is needed that can guarantee the growth and development of children in conflict with the law. Indonesian positive law regulates child protection and methods for resolving criminal cases for children. The 1945 Constitution, as the country's constitution, states that, "Every child has the right to survive, grow, and develop and has the right to protection from violence and discrimination." Furthermore, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (abbreviated as the SPPA Law) provides one of the criminal justice reforms in Indonesia. This law regulates shorter detention periods, efforts to suspend detention, and regulates the obligation of law enforcement to seek diversion (criminal resolution for children through non-formal channels) at all stages of the legal process. Thus, child criminals who are caught still have the opportunity to avoid imprisonment for the sake of their future. The principle of non-discrimination also encouraged the birth of PERMA 2014 on diversion, because correctional institutions are not considered a way to resolve children's problems and there are even concerns that within correctional institutions there is a risk of violations of children's rights.

Every citizen or group has some degree of legal awareness. The issue that arises is the level of legal compliance, namely high, moderate, or low. The degree of public legal compliance is one indicator of the functioning of the law in question. The strong tendency of society to interpret the law as law enforcement or legal officers has led to the public being accustomed to seeing that a crime requires punishment, with legal institutions resolving the case.

4. Conclusion

The settlement of theft cases by children through diversion must be attempted at the level of investigation, prosecution and examination of children's cases in court by prioritizing a restorative justice approach which is threatened with imprisonment of under 7 (seven) years and is not a repetition of the crime according to the mandate of Article 7 of Law No. 11 of 2012 concerning the Child Criminal Justice System. This norm, if associated with sanctions for criminal acts of theft with aggravation or violence which have a heavier threat (7-20 years), will provide different treatment in terms of handling diversion for cases of children in conflict with the law. The weaknesses of the settlement of theft cases by children through diversion consist of weaknesses in legal substance including the provisions of the Diversion requirements regarding the limitation of criminal

¹⁷Martha Eri Safira and Dewi Iriani. Implementation of Legal Protection for Children in Conflict with the Law (A Study of Litigation and Non-Litigation Settlement in Child Criminal Cases in 2015-2017 in Ponorogo Regency). Nata Karya. Ponorogo, 2018, p. 2.

threats under 7 years in Article 7 of the SPPA Law which is based on the application of articles during investigation and prosecution which allows for subjective views. Weaknesses in the legal structure, including the frequent occurrence of several legal regulations that cannot be implemented properly because there are several law enforcement officers who do not implement a legal provision as it should be. Weaknesses in legal culture, namely the culture of society in Indonesia sees a criminal act as a reprehensible act.

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Law Number 1 of 2026 concerning Criminal Adjustments;
Government Regulation No. 65 of 2015 concerning Guidelines for the Implementation of Diversion and Handling of Children Under 12 (Twelve) Years of Age;
Regulation of the Supreme Court of the Republic of Indonesia Number 4 of 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System