

Legal Analysis of Case Handling Against Children Who Commit Abuse

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ABSTRACT

This article aims to provide an overview of the justice system for juvenile offenders of violent crimes. Criminal acts are not just committed by grownups but the perpetrator can also be a child. Child are the golden generation for the nation and state, for that children need attention, protection and coaching to ensure their growth and development, mindset, mentality and behavior. Aggressive behavior in children often stems from children's habits in the use of mobile phones that contain video games that refer to violent games. The event that often occurs today is the crime of persecution where the perpetrator is a child. The factor of acts of abuse committed by children is an action taken by children to express their disappointment with the victim which results in physical violence which often results in injuries, disabilities, and even death. This study identifies the procedure for giving demands for cases of abuse committed by children. The prosecution carried out by the child prosecutor is first pre-prosecuted to the child offender, the child prosecutor can track the investigation's development ultimately, public prosecutor obtains an investigation file that has been first finished the investigator will order to subsequently make an indictment and then can be given to the court the process of resolving instances of child abuse indonesia's court system. Instances of child abuse in indonesia's court system. Juvenile justice can use restorative justice and diversion takes place on the basis of the idea that responses and responses to children's criminal behavior in terms of abuse will not be effective nothing community's and involvement of victims, perpetrators. If it turns out that these two methods cannot be carried out, then a trial in court is the last way and effort that must be taken as a last resort.

Keyword: Prosecution, Juvenile Justice, Child Offenders, Maltreatment.

ABSTRAK

Tulisan ini bertujuan untuk dapat mengetahui gambaran mengenai sistem peradilan terhadap anak pelaku tindak pidana kekerasan. Tindakan kejahatan bukan hanya dilakukan oleh orang dewasa melainkan pelakunya bisa juga seorang anak. Anak merupakan generasi emas bagi bangsa dan negara, untuk itu anak membutuhkan perhatian, perlindungan dan pembinaan untuk menjamin tumbuh kembang, pola pikir, mental dan perilakunya. Perilaku agresif pada anak sering bersumber pada kebiasaan-kebiasaan anak dalam penggunaan ponsel yang terdapat video game yang mengacu pada permainan berbentuk kekerasan. Peristiwa yang sering terjadi masa kini adalah tindak pidana penganiayaan yang dimungkinkan pelakunya adalah seorang anak. Faktor tindakan penganiayaan yang dilakukan anak merupakan tindakan yang dilakukan anak untuk mengungkapkan kekecewaannya terhadap korban yang mengakibatkan kekerasan fisik yang seringkali mengakibatkan cedera, cacat, bahkan kematian. Penelitian ini mengidentifikasi tata cara pemberian tuntutan terhadap perkara penganiayaan yang dilakukan oleh anak. Penuntutan yang dilaksanakan oleh jaksa penuntut anak maka terlebih dahulu dilakukan prapenuntutan kepada pelaku anak, jaksa penuntut anak dapat memantau perkembangan penyidikan setelanya penuntut umum memperoleh berkas penyidikan yang sudah terlebih dahulu dilengkapi oleh



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penyidik untuk selanjutnya dapat membuat surat dakwaan dan kemudian dapat diberikan kepengadilan. Proses penyelesaian perkara penganiayaan yang dilakukan anak dalam sistem peradilan di Indonesia. Peradilan anak dapat menggunakan *restorative justice* dan *diversi* berlangsung dengan landasan pemikiran bahwa tanggapan dan tanggapan terhadap perilaku kriminal anak dalam hal penganiayaan tidak akan efektif baik dari masyarakat maupun keterlibatan korban, pelaku. Jika ternyata kedua cara tersebut tidak dapat dilakukan maka persidangan di pengadilan adalah cara dan upaya terakhir yang harus ditempuh sebagai upaya terakhir.

Kata Kunci: Penuntutan, Peradilan Anak, Pelaku Anak, Penganiayaan.

1. Introduction

According to the provisions of law no. 11 of 2012 article 1 paragraph 2 concerning the child criminal justice system, children who are in conflict with the law can be interpreted as children in conflict with the law, children as witnesses to criminal acts, or children as victims of the law.¹ The features of a youngster who is in confrontation with the law are as follows: 1), as a youngster in dispute with the law, a child who is not yet eighteen (18) years old but is already twelve (12) years old and is presumed to have committed a crime. 2), a youngster who is not yet eighteen (18) years old but is capable of providing information regarding a criminal event that he witnesses, hears, or experiences for that reason is a witness to a criminal conduct. 3), a child as a victim of the law is a young person who has not yet turned eighteen (18) years old who is a victim of a crime and suffers physical, mental, and economic losses due to the crime. In line with the advancements and requirements of the modern world, behavior in society has been inclined and tends to be complicated in behaving in accordance with good norms and joints in social life. In fact, nowadays it is often found that deviant behavior does not refer to the norms, values and habits that develop in the midst of society.²

The parenting pattern, to be able to protect, educate and as a part in terms of good growth and development for children is not only the task of parents but also the state, the environment and in the world of education play a very important role and determine the direction of goals for children's behavior. Children are the golden generation for the nation and state, for that children need attention, protection and coaching to ensure their growth and development, mindset, mentality and behavior. This peculiarity lies in the behavior and actions of children to be able to understand the world around them that they have to face.³ Aggressive behavior is a form of behavior to hurt others, in this case aggressive behavior in children often stems from children's habits in the use of mobile phones that contain video games that refer to violent games. This causes children to exemplify games in the form of violence to their peers and even to others, of course this causes acts of abuse whether intentional or not. In addition to having a negative effect on aggressive behavior in children, it can also have a negative impact on children's health, a child will eventually develop obesity or overweight if they play video games for more than 120 minutes per day.

In principle, in the eradication of criminal acts in general, several efforts can be made, while to provide a deterrent effect is the last resort, namely by using the provisions and suggestions that have been contained this is plainly stated in article 10 of the criminal code. Contains regulations related to the main criminal offenses, including imprisonment, capital punishment, fines and the penalty of cover-up for additional crimes, which is related to the revocation of certain rights, the announcement of judges' decisions and the confiscation of certain goods.⁴ Meanwhile, if we reflect on the perpetrators of crimes against children, the efforts that can be given to prevent crimes that will be caused by child perpetrators. In his book, Soedarto defines child crime as "an act that indicates that if the behavior or criminal act committed by children, this clearly violates norms and values that will clearly have a detrimental impact on society and others".⁵

¹ Article 1 paragraph 2 of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System

² Bambang Waluyo, 2004, *Crime and Punishment*, Sinar Grafika, Jakarta, page 1.

³ Ahmad Sofian, 2012, *Child Protection in Indonesia*, Dilemmas and Solutions, Sofmedia, Jakarta, page 4.

⁴ R. Sugandhi, 1980, *Criminal Code (KUHP) with its Explanation*, National Business, Surabaya, page 12.

⁵ Soedarto, 1987, *Kapita Selekta Criminal Law*, Alumni, Bandung, page 154.

One of the criminal acts that is not only committed by adults but the perpetrator is a child, which can basically be understood if a child is undoubtedly not able to act in a criminal act.⁶ In fact, children are gifts and blessings given by Allah SWT, is the next generation for the country. A child the most valuable wealth that cannot be equated with values, especially money or property in this world.⁷ The event that often occurs today is that the crime of persecution is a common and common occurrence. The act of persecution that occurred was an action taken by the perpetrator to express his disappointment with the victim was physical violence which often resulted in injury, disability, and even death.⁸

In the event that the granting of charges is the power of the public prosecutor, which later in the transfer of the case, will be submitted and handed over directly to the court that has the authority to resolve cases related to matters related to the case and all procedures for provisions of criminal procedure law with a request that further investigation be carried out and the judge renders his decision in the trial. Next in his book, M. Yahya Harahap states that the granting of criminal charges via the public prosecutor is always connected to the plea which will later be submitted by the defendant himself or by the defendant's legal advisor because in criminal prosecution and submitted by the public prosecutor and the plea submitted by the defendant or the defendant's legal counsel is basically a process in an examination of commit legal error, therefore forth referred "the last answer and answer dialogist".⁹

Table¹⁰
Perpetrators of Violence/Persecution
By Age Group
Year 2024

By Aged	Percentage Perpetrators 100% Scale	Percentage Victim 100% Scale
0 to 5 years of age	0,3%	7,1%
6 to 12 years of age	2.9%	20.4%
13 to 17 years of age	14.4%	35,8%

When Viewed from the Table of the Range of Child Offenders 17.6%
And the range of child victims is 63.3%

2. Problem Statement

With respect to the situation described above, the following issues can be developed:

1. How is the procedure for granting charges against cases of child abuse?
2. How is the process of resolving cases of violence against children in the justice system in Indonesia?

3. Method

The research method used in this research is normative legal research method. In his book, Soerjono Soekanto explained that normative research is the nature and scope of the discipline of law, when this discipline is intended as a system that teaches about reality¹¹. Normative legal research methods collect data in ways that have been tested in the form of literature studies by approaching legislation using primary and secondary legal sources. Answering the conclusions of the research results using primary data sources which include court decisions, secondary materials such as books, and scientific articles while tertiary legal materials include

⁶ Alfrita, 2014, *The Abolition of the Right to Sue and Carry Out Crimes*, Penespreader Swadaya Group, Jakarta, page 18.

⁷ Khaira Ummah, *Law Enforcement of Child Crimes as Perpetrators*, Law Journal, Volume. 13. Number 1 March 2018, page 14.

⁸ Alfrita, *Op.cit.*, page 17.

⁹ M Yahya Harahap, 2010, *Discussion Of Problems And Application Of The Criminal Procedure Code (Examination Of Court Hearings, Appeals, Cassations And Reviews)* , Jakarta, Sinar Grafika, page 259.

¹⁰ <https://kekerasan.kemenpppa.go.id/ringkasan>, accessed on November 04, 2024, Pulul 12.00 WIB.

¹¹ Soerjono Soekanto And Sri Mamudji, 2001, *Normative Legal Research A Brief Review*, Jakarta, Raja Grafindo Persada, page 6.

materials that support primary and secondary materials. This research is descriptive analytical research, which examines various rules in existing laws and regulations that are associated with existing legal theories¹². After being described systematically and in depth on the issues raised, the data will be presented in the form of descriptive analysis.

4. Result and Discussion

4.1. Procedures for Granting Demands for Cases of Child Abuse

In the juvenile justice process, the institution or criminal structure that plays a role is the prosecutor or the child public prosecutor. It can be interpreted that the Indonesian law grants direct authority to carry out the process and elements of providing enforcement in terms of prosecution given to a child as a defendant who committed a crime. In this case, the authority is given to the child public prosecutor, who is in charge of providing protection efforts for children who commit crimes. The type of protection provided to a child perpetrator of a crime is the primary focus that will be developed later as a form of protection for children who commit crimes and break the law.¹³ Control of violence or persecution must always be associated with human rights, because people want their rights to be protected. In this case, it is not only the community that has interests but the government also seeks to make people aware of the law. Human rights (HAM) is a fundamental right inherent in human beings that is universal and urgent. This includes the rights that victims of acts of persecution should have. Children as perpetrators of violent crimes must receive proper attention, supervision, handling and prosecution. If a child causes a violation of the law, then the child must be held accountable for his/her actions, but in this case the child as the perpetrator is still given protection.¹⁴

The nature of the form of protection that will be given to children who commit crimes, child perpetrators need to be given the same quality of protection as adults, because each person has the same condition before the law (equality before the law). The judicial process for children often results in losses for child perpetrators of crimes, when the forced method must be ended to produce optimal protection for the interests of children. Child criminal justice is often a method that only adapts to official law enforcement and is not oriented towards the attentiveness of children.

A prosecutor is defined as a civil officer who, in this context, is assigned to a functional post and is responsible for carrying out responsibilities and obligations as prescribed by legislation.¹⁵ Meanwhile, a public prosecutor is defined as a prosecutor who, based on statutory norms, has the authority to prosecute and implement the judge's decision given to him.¹⁶ The prosecutor's office has the authority in the case control process or referred to as "dominus litis", the prosecutor's office is responsible for issuing criminal prosecutions, and the prosecutor can then choose whether the case should move to the next stage. The prosecutor is not only the holder of the "dominus litis", but also the sole holder of the power to carry out the criminal verdict of the "executive ambtenaar". Therefore, the new prosecutor's law is expected furthermore clarify the role and responsibilities of the Indonesian attorney general's office as a government agency that executes state superiority in the sphere of law enforcement.¹⁷

It has been determined that the public prosecutor (jpu) is assigned the tasks and posts outlined in the criminal procedural law and legislation pertaining to the Indonesian attorney general's office no. 11 of 2021. Namely "the prosecutor is authorized to file criminal charges and make court decisions based on this law. Prosecution is an act of the public prosecutor who requests the judge to continue the trial to the court session according to the conditions and methods specified in the criminal procedure code, with a request to be

¹² Ismail Koto, 2023, *The Development of Communal Intellectual Property Rights in Indonesia*, SANKSI: National Seminar on Law, Social and Economy, pp. 169.

¹³ Syamsul Haling et al., "Protection of the Human Rights of Street Children in the Field of Education According to National Law and International Conventions," *Journal Of Law And Development* 48, No 2, (2018), page 361.

¹⁴ Indra W, Elsa Rina MT, Sherly Adam, *Settlement Of Criminal Cases Of Persecution With Child Offenders According To Law Number 11 of 2012*, PAMALI, Pattimura Magister Law Review Vol 1, No 2, (2021), page 75.

¹⁵ Article 1 point 2 of Law of the Republic of Indonesia Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia.

¹⁶ *Ibid*, Article 1 point 3.

¹⁷ Jeprimsa Sitepu, 2020, *The Role Of The Public Prosecutor In Prosecuting Cases...*, Medan, University of Medan Area, page 13.

examined and decided by the judge at the court session".¹⁸ persecution is a form of arbitrary act to abuse or oppress others. Abuse that causes and resulting in suffering or impairment to the body or body parts of others is an illegal conduct. When studied in the provisions contained in the criminal code in article 351 concerning abuse, it is clearly contained in the criminal code, whose components are:

- (1) Abuse carries a maximum prison sentence of two years and eight months or a penalty totaling four thousand five hundred rupiah.
- (2) If the action causes significant damage, the person who committed it faces a maximum prison sentence of five decades in prison.
- (3) If it finishes in mortality, it is punishable by an unlimited seven-year sentence.
- (4) Abuse is defined as causing purposeful harm to one's health.
- (5) Efforts at committing this kind of crime are not penalized.

In terms of the provisions on criminal fines, it is clearly considered to be in accordance with the provisions contained in article 351 chapter (1) of the criminal procedure code, and is now clearly adjusted to the provisions of chapter 3 of the high court's rules no 2 of 2012 regarding the merger of limitations on minor criminal offenses and types of criminal offenses in the criminal code, by excluding article 303 section (1) and section (2) of the criminal, can be doubled to one thousand so that it worth Rp 4,500,000,. In addition to authorize to the public prosecutor's office to bring out its demands, in other cases each prosecutor's office must facilitate a special room for the examination stage, prepare guidelines and sops for dealing issues involving children in disagreements with the regulations through restorative so that in this case it can form a the task force for addressing children in dispute with the rules carries out the institution's leadership functions prosecutor's office effective.

The basis for consideration in terms of giving charges to children who commit the crime of persecution, by the child public prosecutor must pay attention to the basis of objective consideration where the mistakes committed by the child defendant must be viewed from an objective perspective, related to how the child perpetrator commits the crime and the basis for subjective consideration of how it is related to the condition of the child's offender, related to a motive of a child's perpetrator towards the victim's witness.

One of the juvenile prosecutors, h. Noviana, stated that before taking pre-prosecution actions against child offenders, the juvenile prosecutor can monitor the progress of the investigation if in the notification process, then it can conduct an investigation and investigation, then the child prosecutor can review the investigation and the integrity of a investigation that resulted in the case file and investigation received by the investigator and direct a investigation to complete it to determining the type of data its a case can be forwarded to the court. If then the case file is still considered incomplete, especially in the section of completeness of the evidence, then an indictment can be made which can then be processed related to the prosecution, within fourteen (14) days from the first time the file is received, the public prosecutor can go back the document's contents to be completed by the investigator and subsequently by the investigator the file is given to the public prosecutor. In fact, public prosecutor obtains an investigation file that has been performed by the person being investigated to subsequently be able to make an indictment and then can be given to the court as the beginning/basis for the examination in the running of the trial later.¹⁹

In particular, in adjudicating cases where the perpetrator is a child perpetrator, need to pay attention to age the child based on evidence, and protected child rights are half of minimum punishment The prosecutor's determination to seek criminal charges against a child was founded on the reality that the office of the prosecutor was from a beginning assumed that there was a criminal relationship with the child and the parents of the child were unable to provide guidance and supervision to the child. Therefore, the prosecutor filed a lawsuit to maintain justice. However, criminal action against children does not provide a deterrent effect for children, but only provides opportunities for them to learn.²⁰

¹⁸ <https://news.detik.com/berita/d-6355488/tugas-jaksa-penuntut-umum-penjelasan-dan-wewenangny>. Accessed on November 3, 2024, at 23.00 WIB.

¹⁹ Ana Azkan Nuvus and Ida Musofiana, 2023, The Role Of The Prosecutor's Office In Prosecuting Children Of Theft Crime, Proceedings Of The Scientific Constellation of Unissula Students (Kimu) 5 Sultan Agung Islamic University, page 356.

²⁰ Ibid, page 357

If it turns out that the prosecutor feels a need to discontinue prosecution, namely clearly listed in article 14 of the criminal procedure code point (h) where it is stated if, "the public prosecutor is authorized to close the case for the sake of the law, but in practice there is reluctance or hesitation for the public prosecutor to terminate the prosecution is linked to the 'complete investigation result notification letter' which is in accordance with the p.21 form format (the investigation result notification letter is complete). There are some prosecutors who argue that with the issuance of p.21, the case file must be transferred to the court for trial. Such assumptions/opinions are wrong".²¹

Article 53 paragraphs 1-3 of Law No. 3 of 1997 stipulate that a juvenile prosecutor is appointed by a decree of the attorney general or other official designated by the attorney general. and first meets the requirements of experience, interest, and interest as a prosecutor of criminal acts committed by appointed adults. In order to fully understand the child's problem, the prosecutor may be given the task of adjudicating certain matters that are deemed necessary, and done by adults.

4.2. *The Process of Resolving Cases Of Child Abuse in Indonesia's Justice System*

Is based on criminological theories, it needs to be seen that crimes or criminal acts committed by children cannot be considered if children commit their crimes as the main perpetrators. It must be clarified who the child is friends with, how in what kind of environment the child plays, and how microtheory can explain why the child commits crimes. The statement of the crime committed by the child should be heard by law enforcement and parents as well as the guardian of the perpetrator or victim so that they understand the child's mistake, not justify it. In addition, the settlement of the action abuse performed by children through process a trial can result in and cause losses both socially and psychologically for children. The procedures that can be done to minimize losses to the children of the perpetrators of the crime can be done by:

a. Through settlement restorative justice approach

In 2019, the attorney general's office of the republic of indonesia issued regulation of the attorney general of the republic of indonesia number 15 of 2020 concerning termination of prosecution based on restorative justice. Article 1 point 6 of the SPPA law in matters relating to the settlement of criminal cases by involving perpetrators, victims, families of perpetrators and other related parties to jointly seek a fair solution by emphasizing recovery back to its original state, and not retribution. The objective is to achieve justice that is as fair as possible, especially for all parties involved in it, and not just prioritize punishment. Restorative justice must contain characteristics, including: a) Confession from the child offender, b) Consent from parents and guardians, c) Consent from the Prosecutor's Office and, d) Support from various parties to carry out restorative justice. Restorative justice also has mechanisms, namely: meetings or discussions, mediation between victims and perpetrators, negotiating, compensation, victim assistance and assistance to former perpetrators. Therefore, in judicial practice in Indonesia, especially at the investigative level, restorative justice is widely used in cases of domestic violence and other cases that are classified as minor crimes. In several legal regulations, the spirit of restorative justice contained therein.²²

b. Through solutions with a Diversion approach

Diversion is the process of transferring juvenile cases from the criminal court system to an alternative outcome. This diversion occurs through counseling involving children, parents, victims, community counselors and professional experts whose authority is on this matter. There is content from the conditions for the enactment of diversion for the benefit of child offenders, namely children are sentenced to imprisonment for a maximum of 7 years and do avoid reliving wrongdoings. Diversion process that successfully reaches an the approval is outlined in a diversion agreement, so the parties must sign it and submit the diversion agreement to the state prosecutor's office, then the head of the prosecutor's office issues an order to stop the prosecution. however, if the diversion procedure at prosecutor offices. Fails, then public prosecutor will refer the case to ordinary examination / APB or through a brief examination / APS according to the law, then child criminals

²¹ Robert Andriano Pido, 2014, Prosecution Of Children's Cases In The Juvenile Criminal Justice System In Indonesia, Lex Crimen Vol. III.No. 4, page 7.

²² Bambang Waluyo, 2022, Settlement Of Criminal Cases For The Application Of Restorative And Transformative Justice, Jakarta, Sinar Grafika, page 72.

justice process that conflicts related to law is continued. Diversion is certainly not only a matter of quantity but also quality. The ability of law enforcement to facilitate diversion is something very important in the course of this diversion, they are the main intermediaries in mediating and negotiating the diversion process. They also need to have a good understanding of best protection for the child. Diversion cannot be reduced to just canceling a case. In addition, the diversion process also aims fostering responsibility in children.²³

Juvenile justice using restorative justice and diversion takes place on the basis of the idea that responses and responses to children's criminal behavior will not be effective without the involvement and contribution of victims, juvenile offenders, and the community. Essentially, justice will be served if all parties are treated fairly and equally, actively engage in the court process, and obtain suitable rewards from their involvement in the juvenile criminal justice system. Diversion is used to give educational punishments, not to pressure and oppress child offenders, as well providing legal protection to children who commit criminal offenses from being perceived as delinquents. This is because criminal acts that allegedly involve children as perpetrators can be punished without the need to go through the legal process.²⁴

If it turns out that these two methods cannot be is conducted, then the trial is held at the court is the last way and effort that must be taken, reflecting on the decree of the minister of justice of the republic of Indonesia no 02. pw. 07. 10 of 1997 concerning Trial Rules and Courtroom Rules in article 16, specifically in the juvenile justice system, the courtroom is divided into 3 categories, namely first, the room for judges, clerks, and clergy. Second, the public room and the third room are for the public prosecutor, legal advisors, community advisors, defendants, witnesses, and parents.²⁵ In the process of examining the juvenile trial, which is basically carried out with a single judge, this is clearly in line based on the provisions contained in the SPPA law in Article 11 paragraph 1 where it is explained that the trial process runs behind closed doors. With a single judge, which aims to complete the juvenile trial quickly. Where in essence resolution of children's cases can be done quickly or briefly, so that children do not linger on being treated related to the provision of sanctions for delinquency that they have committed.

In Indonesia, since enactment of Law No. 11/2012 on juvenile justice system, has brought new changes related to prison sentences that can be imposed on child, especially against children who are perpetrators of criminal offenses, until provisions in Article 10, Article 45, the provisions in article 46 and article 47 of the criminal code no longer apply to juvenile offenders. In the trial process against the defendant of the perpetrator of the act of abuse committed by children, the authorized institutions/agencies in these cases, including a judge, a child public prosecutor, and legal advisors, not wearing the toga attribute during the activity court. The clerk in charge of this case is to be able to help the judge not to wear his toga. To avoid using clothes that are large so that during the trial the child defendant does not feel afraid and cares about the child being tried. in addition, wearing an ordinary suit can make the trial run smoothly and is full of a sense of family.²⁶

5. Conclusion

1. The prosecution for the perpetrators of child abuse carried out by the child prosecutor is first carried out pre-prosecution of the child perpetrator, the child prosecutor can monitor the progress of the investigation if in the notification process, before taking pre-prosecution actions against child offenders, the juvenile prosecutor can monitor the progress of the investigation if in the notification process, then it can conduct an investigation and investigation, then the child prosecutor can review the investigation and the integrity of a investigation that resulted in the case file and investigation received by the investigator and direct a investigation to complete it to determining the type of data its a case can be forwarded to the court. If then the case file is still considered incomplete, especially in the section of completeness of the evidence, then an indictment can be made which can then be processed related to the prosecution, within fourteen (14)

²³ <https://unpar.ac.id/keadilan-restoratif-untuk-anak/>, accessed on November 4, 2024, at 09.00 WIB.

²⁴ Rr. Putri A Priamsari, "Seeking a Fair Law for Children Through Diversion," Law Reform 14, no. 2 (2018): 220-35.

²⁵ Article 16 Decree Of The Minister Of Justice Of The Republic Of Indonesia No M 02 PW. 07. 10 Of 1997 Concerning Trial Rules And Courtroom Rules.

²⁶ Indra W et al, Opcit page 82.

days from the first time the file is received, the public prosecutor can go back the document's contents to be completed by the investigator and subsequently by the investigator the file is given to the public prosecutor. In fact, public prosecutor obtains an investigation file that has been performed by the person being investigated to subsequently be able to make an indictment and then can be given to the court as the beginning/basis for the examination in the running of the trial later, but in practice there is reluctance or hesitation for the public prosecutor to terminate the prosecution is linked to a complete notification of the results of the investigation which is in accordance with the format of the p.21 form (the notification of the results of the investigation is complete). For this reason, in the rules of the child criminal justice system, there are basic principles so that the legal treatment undertaken by children is based on protection, justice, nondiscrimination, paying attention to the best interests of the child, survival, child growth, child protection and punishment as a last resort and avoidance of future retaliation.

2. Juvenile justice can use restorative justice and diversion takes place on the basis of the idea that responses and responses to children's criminal behavior will not be effective without the cooperation and participation of victims, offenders, and communities. The basic principle is that justice is best served when each party receives fair and balanced attention, actively participates in the judicial process, and receives appropriate benefits from its interaction with the juvenile justice system. Diversion is implemented with the aim to provide sanctions that are educative in nature, not to suppress and incriminate child offenders, as well as to provide legal protection for child offenders from being considered as delinquent children. This is because the crime of persecution that allegedly involves children as perpetrators can be punished without the need to go through the legal process. If it turns out that these two methods cannot be carried out, then the trial in court is the last way and effort that must be taken, reflecting on the decree of the minister of justice of the republic of indonesia no 02. Pw. 07. 10 of 1997 concerning trial rules and courtroom rules in article 16, specifically in the juvenile justice system, the courtroom is divided into 3 categories, namely first, the room for judges, clerks, and clergy. Second, the public room and the third room are for the public prosecutor, legal advisors, community advisors, defendants, witnesses, and parents. In the process of examining the juvenile trial, which is basically carried out with a single judge, this is clearly in accordance with what is stipulated in the sppa law article 11 paragraph 1 where it is explained that the trial process runs behind closed doors. With a single judge, which aims to complete the juvenile trial quickly. Where in essence solving children's cases can be done quickly or briefly, so that children do not linger on being treated related to the provision of sanctions for delinquency that they have committed. This aims to Realizing peace between victims and perpetrators, seeking to resolve children's cases through out-of-court processes, protecting children against deprivation of liberty, increasing community involvement and fostering an attitude of responsibility in children. that in handling children who are directly in conflict with the law is different from handling adults as perpetrators of criminal acts, the juvenile criminal justice system prioritizes handling children's cases by prioritizing restorative justice.

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