



Juridical Analysis of the Application of Law (Restorative Justice) towards Children in Obscenity Cases (Case Study Decision No: 2690/Pid.Sus/2015/Pn.Mdn)

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Abstract

The principles of child protection, especially the principle of non-discrimination and the rights of children, including those involved in criminal acts, are the focus of this research. Research questions include legal arrangements in the juvenile justice process, obstacles faced by restorative justice in law enforcement in Indonesia, and the application of restorative justice in resolving criminal cases in Indonesian criminal law. This type of research is normative juridical, which analyzes normative provisions related to restorative justice in Indonesia. The purpose of this research is to examine regulations that protect crime victims. The results show that restorative justice in handling juvenile crimes is important in improving relationships between perpetrators, victims, and society. A restorative justice process emphasizes the importance of fulfilling the rights of victims and society. The principles of restorative justice and diversion in law enforcement against children have been regulated in Law Number 11 of 2012 concerning the juvenile justice system.

Keywords: Child; Restorative Justice; Law Enforcement.

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INTRODUCTION

More than 4,000 Indonesian children are taken to court each year for minor crimes, such as theft. In general, they do not get support, either from lawyers or social services. Thus, it is not surprising that nine out of ten children who commit crimes are sent to prison or detention centers. For example, throughout 2000, in the criminal statistics of the Directorate General of Corrections (Ditjenpas), there were more than 11,344 children who were suspected of being perpetrators of criminal acts. This can be seen from the tendency of the number of students to increase from year to year. In 2005, there were 1645 students handled by the Ditjenpas, in 2006 there were 1814 children, in 2007 there were 2149 children, in 2008 there were 2726 children, in 2009 there were 2536 children who were detained in detention centers and correctional institutions. throughout Indonesia. Then in 2008 in the province of East Java, there were 20,262 children with student status (civil children, state children, and criminal children) spread across all detention centers and correctional institutions for adults. This condition is very worrying because many children have to deal with the justice system and they are placed in detention and imprisoned with adults so they are vulnerable to violence (Wadong, 2000).

So far, the regulations governing law enforcement and legal protection of nobility and human dignity in the criminal process have essentially been contained in Law No. 48 of 2009 concerning Judicial Power and Law No. 8 of 1981 concerning the Criminal Procedure Code. (Code of Criminal Procedure)(Wadong, 2000). If criminal procedural law is seen from the criminal case process, then it is interpreted as narrow criminal procedural law, namely containing rules regarding the implementation of all efforts when there are suspicions or acts occur through the stages of inquiry, investigation, prosecution, trial examination, judge's decision and implementation of the judge's decision by authorized officers, with the obligation to uphold human rights by State regulations and laws (Siregar et al., 2023).

Physical and psychological violence is often experienced by suspects or defendants (Panjaitan & Simorangkir, 1995). The second aspect that has not been discussed and has been put aside is the aspect of criminal objectives. What is the aim of the crime aimed at the defendant? If asked by a judge, the judge is often unsure, if pressed for an answer based solely on assumptions (Sahetapy, 2007). It is said this because, in addition to the fact that crime continues to increase, this is an indicator of the ineffectiveness of the criminal justice system, it is also because the criminal justice system itself in certain cases can be seen as a criminogenic and victimogenic factor (Nawawi, 1992).

Restorative justice is a model for resolving criminal cases that prioritizes the restoration of victims, perpetrators, and the community. The main principle of restorative justice is the participation of victims and perpetrators and, the participation of citizens as facilitators in resolving cases.(Maulana & Agusta, 2021). When someone violates the law, the situation will change. So that is where the role of law is to protect the rights of every victim(Maulana & Agusta, 2021). To analyze legal arrangements in juvenile justice in the case resolution process; To analyze the obstacles to restorative justice in law enforcement in Indonesia; To analyze the application of restorative justice law in the process of resolving criminal cases in criminal law in Indonesia.

RESEARCH METHODS

The specifications of this research are descriptive-analytical research, namely starting with collecting data related to the discussion above, then compiling, classifying, and analyzing it, and then interpreting the data, so that a clear picture of the phenomenon under study is obtained (Soekanto & Mamudji, 2016). The approach method used is a normative juridical approach where the approach to problems is carried out by examining various legal aspects (Soekanto & Mamudji, 2016). This approach is used by looking at the statutory regulations related to the object of the research study. The location of this research will be carried out at the Medan District Court, where the data related to this research was obtained from that court.

To obtain scientifically objective research results, data is needed that can be accounted for by the truth of the results. So this research uses data collection tools through document study, namely in the form of research that studies and understands library materials related to the object of this research. Study of documents and literature originating from the literature or obtained from the field related to research. Data collection is related to resources because through data collection the necessary data will be obtained for further analysis as expected (Soekanto & Mamudji, 2016):

- a. primary legal materials, sourced from legal materials obtained directly and will be used in research which are legal materials that have juridical binding force, namely: the 1945 Constitution; Criminal Code; Law Number 23 of 2002 concerning Child Protection.
- b. Secondary legal materials are legal materials that are closely related to primary legal materials that can help analyze and understand secondary materials (Soekanto & Mamudji, 2016) which consist of Literature books; Law journals related to research; Research reports papers; Mass media articles
- c. tertiary legal materials, legal materials that provide meaningful instructions or explanations for primary and secondary legal materials including dictionaries and others

The data analysis used in this writing is normative qualitative data analysis, namely analysis used without using numbers or static formulas. Qualitative analysis produces descriptive data by drawing data from inductive to deductive in the sense of what the research target in question states in writing. This research uses a qualitative approach, so the data that has been collected is also analyzed qualitatively. Qualitative data analysis is a way of explaining data based on findings from literature studies.

RESULTS AND DISCUSSION

Law Number 11 of 2012 concerning the Juvenile Justice System

Article 1 number 1 Law no. 23 of 2002 concerning Child Protection, the definition of a child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb. Meanwhile, in the Convention on the Rights of the Child, a child is every human being under the age of 18 (eighteen) years, unless based on what applies to the child it is determined that the age of majority is reached earlier. Meanwhile, in Law, no. 39 of 1999 concerning Human Rights, Children (Atmasasmita, 1983a) are every human being under 18 (eighteen) years of age and unmarried, including children who are still in the womb if this is in their interests.

The age limit for children provides a classification for someone to be called a child. What is meant by the child age limit is the maximum age grouping as a manifestation of the child's legal status so that the child changes status to adulthood or becomes a legal subject who can be independently responsible for the actions and legal actions he or she carries out. In general, in Indonesian laws and regulations, the maximum limit for a person being classified as a child is 18 (eighteen) years (Rahardjo, 2010). By the Children's Court Law, the age limit for a child to be treated for a legal violation is 8 (eight) to 18 (eighteen) years. These basic considerations in considering the punishment of minors are not relevant if you use the three classical theories, namely:

- a. The absolute or retaliation theory, namely in the theory of retaliation, is expected to imprison the perpetrator of the crime
- b. The relative or objective theory cannot be completely ignored in the criminalization of minors because this theory not only takes into account the interests of the perpetrator, victim, and society but also the future interests of the perpetrator, including providing education for children so that they become aware and aware, and do not want to repeat themselves. his actions and can become a good human being.
- c. The combined or convergence theory, namely the theory that draws from the theory of retaliation and the relative theory above, is no longer relevant to the theory of punishment at present because, in the current theory, the theory of retribution only looks at past events

without considering the future interests of the perpetrator of the crime. which often causes unlimited suffering (Ashshofa, 2007).

Regarding child protection, Article 64 of the Child Protection Law states that:

1. Special protection for children in conflict with the law as intended in Article 59 includes children in conflict with the law and children who are victims of criminal acts, is an obligation and responsibility of the government and society.
2. Special protection for children in conflict with the law as intended in paragraph 1 is implemented through:
 - a. Treating children humanely by the dignity and rights of children.
 - b. Providing special support staff for children from an early age.
 - c. Provision of special facilities and infrastructure.
 - d. Imposing appropriate sanctions is in the best interests of the child.
 - e. Continuous monitoring and recording of the development of children in conflict with the law.
 - f. Providing guarantees to maintain relationships with parents or family.
 - g. Protection from identity reporting through mass media and avoid labeling.
3. Special protection for children who are victims of criminal acts as intended in paragraph 1 is implemented through:
 - a. Rehabilitation efforts, both within the institution and outside the institution.
 - b. Efforts to protect against identity reporting through mass media and to avoid labeling.
 - c. Providing safety guarantees for victim witnesses and expert witnesses, both physically, mentally, and socially.

Provisions for sanctions (criminals and actions) for children are contained in The Beijing Rules and The Tokyo Rules concerning United Standard Minimum Rules for Non-custodial Measures. The provisions for sanctions against children in The Beijing Rules are contained in Rule 18 concerning "Various actions for placing children (various disposition measures)" namely: Caregiving, guidance, and supervision orders; Probation; Community service order;

The objectives of the diversion efforts are:

- a. To prevent children from being detained;
- b. To avoid branding/labeling children as criminals;
- c. To prevent the repetition of criminal acts committed by children;
- d. So that children are responsible for their actions;

Departing from this idea, the goal of an integrated juvenile criminal justice system places greater emphasis on the first (resocialization and rehabilitation) and third (social welfare) efforts. Sudarto said that in the juvenile criminal justice system, examination activities and case decisions are focused on the interests of children, therefore all activities carried out by police, prosecutors, judges, and other officials must be based on a principle, namely for the welfare of children and the interests of children. Based on the objectives of the juvenile criminal justice system, one thing that can be done is to implement Restorative Justice (Article 16 of Government Regulation No. 65 of 2015 concerning Guidelines for Implementing Diversion and Handling Children Who Are Not Yet 12 (Twelve) Years Old).

Restorative Justice is implemented to achieve restorative justice. Restorative Justice has different principles from conventional justice models. Restorative Justice has the following principles:

- a. Make the offender responsible for repairing the harm caused to repair the harm caused by the offender's fault;
- b. Involving victims, parents, families, schools and peers;
- c. Creating a forum for collaboration in resolving problems;

A diversion program can be a form of Restorative Justice if:

- a. Encourage children to be responsible for their actions;

- b. Providing opportunities for children to compensate for mistakes made by doing good for the victim;
- c. Provide opportunities for the victim to participate in the process;

The positive law used to judge children is clearly in conflict with human rights, contrary to the basic constitution, and is very dangerous for the future of children, so there is no other choice, we have to overhaul the juvenile justice system in Indonesia. It is not just about revising the Juvenile Justice Law, it is not enough to change the implementation rules for law enforcement officials in the field, but also the paradigm of juvenile justice must be changed. The juvenile justice paradigm must be based on a child protection perspective. In child protection, there are 4 basic principles, namely: non-discrimination; best interests of the child; survival, growth and development, and respect for children's opinions.

The implementation of the idea of diversion in handling problems of children in conflict with the law is carried out by implementing restorative justice in juvenile criminal justice. The Juvenile Justice System is all elements of the criminal justice system involved in handling cases of juvenile delinquency. First, the police is a formal institution when delinquent children first come into contact with the justice system, which will also determine whether the child will be released or processed further. Second, the prosecutor and parole institution will also determine whether the child will be released or processed to juvenile court (Article 16 of Government Regulation No. 65 of 2015 concerning Guidelines for Implementing Diversion and Handling Children Who Are Not Yet 12 (Twelve) Years Old).

Government Regulation Number 65 of 2016 guidelines for implementing diversion and handling children

The perpetrator and victim are met first in a negotiation to prepare a legal proposal for the perpetrator's child which will then be taken into consideration by the judge in deciding this case (Jamba et al., 2023). This program assumes that perpetrators and victims both receive the best possible benefits so that it can reduce the recidivism rate among children who commit crimes and provide a sense of responsibility for each party. Every level of justice is obliged to carry out the diversion process, whether investigation, prosecution, or examination in court. If the diversion process does not produce an agreement or the diversion agreement is not implemented, then the juvenile criminal justice process continues at every level (Jamba et al., 2023). Investigations into children's cases are carried out by child investigators appointed based on the decision of the Chief of Police of the Republic of Indonesia (KAPOLRI) or other officials appointed by the KAPOLRI. Requirements to be appointed as a Children's Investigator: Have experience as an Investigator; and have interest, attention, dedication, and understanding of children's problems.

The definition of prosecution is the action of the public prosecutor to transfer a criminal case to the competent District Court in the terms and manner regulated in law with a request that it be examined and decided by a judge at trial. Prosecution in juvenile criminal proceedings implies the action of the juvenile public prosecutor to delegate the juvenile's case to the juvenile court with a request that it be examined and decided by a juvenile judge in the juvenile trial (Gultom, 2008).

If there is no Juvenile Judge, then the examination at the Juvenile Court is carried out by a judge for criminal acts committed by adults. Diversion is regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and Supreme Court Regulation Number 4 of 2014 concerning Guidelines for Implementing Diversion in the Juvenile Criminal Justice System, however, these regulations are not yet perfect in becoming guidelines for implementing diversion to protect children. The investigator notifies and offers to resolve the case through diversion to the child and/or parent/guardian, victim or child victim and/or parent/guardian within a period of 7 x 24 (seven times twenty-four hours) from the start of the investigation (Article 5 paragraph (1) Law No.11 of 2012 concerning the Juvenile Criminal Justice System). In preparing a diversion agreement, the diversion facilitator pays attention and directs that the agreement does not conflict

with religious law, community propriety, or morality or contains things that cannot be implemented or are in bad faith (Article 7 paragraph (1) of Law No. 11 of 2012 concerning Systems Juvenile Criminal Justice 1).

Investigators make reports and minutes of the diversion process send case files to the public prosecutor and continue the criminal justice process if the diversion deliberation process does not reach an agreement. If diversion reaches an agreement, the investigator submits the Diversion Agreement Letter and diversion minutes to the investigator's direct superior to be sent to the Chairman of the District Court to obtain a determination. The Chairman of the District Court issues a decision within a maximum period of 3 (three) days. The determination is submitted to investigators and community counselors within a maximum period of 3 (three days) from the date of determination. Investigators ask the parties to implement the diversion agreement after receiving the determination. Supervision is carried out by the investigator's direct superior regarding the implementation of the diversion agreement. Community counselors provide assistance, guidance, and supervision in the implementation of diversion agreements (M Yahya Harahap, 2019).

Article 30 of this Government Regulation states that further provisions regarding procedures for implementing diversion at the investigation level are regulated by the Regulation of the Chief of the National Police of the Republic of Indonesia and also apply to law enforcement institutions/agencies that have Investigators or Civil Servant Investigators. Several benefits can be gained if diversion is carried out at the investigation stage by the police, namely:

1. The police is the only law enforcement agency in the criminal justice sub-system that has a network down to the sub-district level. Thus, structurally the police agency is the only law enforcement agency that is closest and easiest to reach by the community. With such an institutional portrait, the police are the law enforcement agency most likely to have a network down to the lowest level (village level).
2. By transferring the process from the judicial process to a non-judicial process at the police level, it will also mean preventing children from the possibility of becoming victims of violence at the investigative level which is often a scourge in the judicial process. Supervision is carried out by the public prosecutor's direct superior regarding the implementation of the Diversion agreement. Community counselors provide assistance, guidance, and supervision of the implementation of diversion agreements (Article 14 of Government Regulation No. 65 of 2015 concerning Guidelines for Implementing Diversion and Handling Children Who Are Not Yet 12 (Twelve) Years Old).

Unfortunately, the values of Pancasila have now been eroded and suppressed by the spirit of unlimited freedom, and liberal democratic solutions in all segments of life, including access to justice for vulnerable and marginalized communities, in this case, human beings, namely children (Atmasasmita, 1983b). If we return to the philosophical roots of the nation, and respect the existence of customary law as a source of national law in the archipelago, implementing restorative justice will not be difficult to implement, especially for perpetrators of child delinquency.

Meanwhile, on the other hand, perpetrator development often requires the perpetrator to participate in counseling or treatment services, basically the focus is more focused on the individual perpetrator and does not reflect the intention of fostering the perpetrator's sense of responsibility for the impact of his actions on the victim or the community (Soetedjo, 2013).

The restorative model of juvenile justice also departs from the assumption that responses or reactions to children's delinquent behavior are ineffective without cooperation and involvement from victims, perpetrators, and the community. The basic principle is that justice is best served when each party receives fair and balanced attention, is actively involved in the justice process, and obtains adequate benefits from their interaction with the juvenile justice system (Cowie & Jennifer, 2007), identified the main aspects of restorative justice as follows:

- a. Improvement is not about gaining victory or accepting defeat, accusations, or revenge but about Justice with a capital K.
- b. Restoration of relations, rather than punishment, criminal perpetrators assume responsibility for mistakes and correct them in several ways. Through an open and direct communication process, between victims and criminals, it has the potential to change the way they relate to each other.
- c. Reintegration, at its broadest level, provides an arena in which children and parents can receive a fair process. This means that they learn about the consequences of violence and crime and understand the impact of their behavior on other people.

In the retributive justice model, a case is only seen as an *ansich* law, then the action is seen as a crime and what punishment will be given. In restorative justice, violations of a regulation are also seen from moral, social, cultural, economic, and so on aspects (Nashriana & in Indonesia, 2011).

In this figure, the vertical axis refers to the boundaries necessary to maintain a good structure in the community (school, society) as a whole, while the horizontal axis refers to the emotional support and nurturing that the community and individuals within it need.

- a. Practices that lack structure and support are considered negligent (not involving anyone when a child's delinquency occurs).
- b. Practices that are high in control but low in support are punitive (exercising power over people by accusing participants of violence and thereby perpetuating a culture of blame and disgrace).

Failure to raise public awareness of the restorative justice paradigm will thwart all scenarios. Of the three provinces in Indonesia that have begun to develop restorative models (although still within the conventional justice system), namely Aceh, Central Java, and West Nusa Tenggara, the author obtained information that the wishes of the police officers who wanted to stop juvenile justice were obstructed by the community itself (Marlina, 2012). The police show the articles or arguments in the provisions of juvenile justice laws and regulations, then community actors are invited to find the best solution so that there can be a process of repair, restoration of relations, reintegration, conciliation, and reconciliation between the victim and the perpetrator, the victim's family and the perpetrator's family, with society's acceptance of the perpetrator again without any stigma towards the perpetrator (Lamintang, 2014).

Punishment in the form of action is carried out through a mechanism established by the Juvenile Justice System Law where the perpetrator is not a pillar of conventional law, but society itself through its actors (Gumilang, 1993). Through a confidential family trial, the perpetrator's children, victims, parents, and community figures in equal positions express their feelings to each other, then decide what action the perpetrator should take after he truly understands the mistake that has been committed. Several options depend on the severity and severity of the child's mischief, such as:

- a. The perpetrator was returned to his parents with several notes, for example, the perpetrator came to the victim's house to apologize and provide compensation which was discussed in an equal position.
- b. Actors carry out social work, for example compiling archives, making a school library catalog, sorting letters at the Post Office, or other social work carried out after school hours, according to age level, health condition, location of residence, physical abilities, and so on. Students do not need to be given special uniforms, except school uniforms (Rommelink, 2017).

Obstacles to Restorative Justice in Law Enforcement in Indonesia

Internal Barriers. However, it turns out that not all parties can implement these four aspects considering that the increasing number of people involved in the direct handling of children in conflict with the law can provide technical impacts and obstacles. As a result, the rehabilitation and reintegration process only requires core components and other components as

support and prevention stages. Legal mechanisms, law enforcement officials, and society are factors that should receive sufficient attention to provide attention and protection to the basic rights of a child in conflict with the law (Djamil, 2017).

External Barriers. Child protection is an effort to create conditions that protect children so they can carry out their rights and obligations. The state provides attention and protection to children through its handling of children in conflict with the law in the best interests of the child and based on the values of Pancasila. Factors that hinder the implementation of Restorative Justice are:

- a. Legal substance that does not yet accommodate the complete implementation of restorative justice.
- b. Law enforcers have not optimally implemented existing regulations and are still rigid, and the legal culture/community participation has not been maximized.
- c. no regulation accommodates all provisions regarding handling ABH through a restorative justice approach, and outreach to all law enforcement officers and the community.
- d. Coordination between law enforcement officers and changing the paradigm of law enforcement officers from a retributive and restitutive justice approach to restorative justice has not been fully achieved (Gultom, 2008).

In full, Article 18 of Law Number 2 of 2002 states:

- a. In the public interest, officials of the Indonesian National Police in carrying out their duties and authority can act according to their judgment.
- b. Implementation of the provisions, as intended in paragraph (1), can only be carried out in very necessary circumstances by paying attention to statutory regulations and the Code of Professional Ethics for the National Police of the Republic of Indonesia.

In applying or implementing the concept of restorative justice, National Police investigators often experience doubts in making decisions during the investigation process, especially if the perpetrator/his family and the victim/his family or the community want peace in resolving the case or matter (Kusumaatmadja, 2002). This is because there are no rules or legal umbrellas or formal procedures/mechanisms to accommodate this so this situation becomes a dilemma for Polri investigators in the field based on the following factors:

- a. The investigator's concern or fear will be blamed by the leadership or superiors and will result in problems with supervision and examination by supervisory institutions and internal police examiners who use formal procedural parameters.
- b. There is no legal umbrella that regulates and becomes a basis for legitimacy in making decisions in the investigation process, whether based on the concept of Restorative Justice or other approaches that are in line with the Sociological Jurisprudence school.
- c. There is no formal procedural procedure or mechanism to implement it.

Understanding the concept of police discretion in simple terms means understanding that it is the authority of members of the National Police to make decisions or choose various actions in resolving criminal cases they handle based on the law based on situations and conditions, according to their considerations and decisions of conscience in the public interest. Some of the weaknesses in implementing restorative justice include:(Muladi & Arief, 1984). In this aspect of law enforcement, cross-sector coordination forums have not been implemented optimally, especially institutions outside the Police, Prosecutor's Office, and Law and Human Rights. It is still clear that sectors are busy running on their own without any integration and synchronization of programs that should be carried out and are needed in handling ABH.

Application of Restorative Justice Law in the Settlement Process of Obscenity Cases

Penal Effort. This social control mechanism is in the form of a process that has been planned and aims to recommend, invite, order, or force members of society to comply with legal norms or legal regulations that are currently in force. In enforcing the law, 3 (three) elements must be

considered, namely legal certainty, expediency, and justice. Legal certainty is a justifiable protection against arbitrary actions, which means that someone will be able to obtain something they hope for in certain circumstances. The public expects legal certainty because with legal certainty society will be more orderly (Soekanto & Mamudji, 2016).

One of the acts of exploitation is child sexual exploitation which is defined as activities involving boys or girls, for money, profit, or other considerations or due to coercion or influence of adults, individuals, or groups, related to sexual relations or behavior that causes lust. .” 3 activities fall into the category of sexual exploitation, namely: child prostitution, child trafficking and child pornography (Purandari, 2019).

According to Article 88 of Law Number 23 of 2002 concerning Child Protection: Every person who economically or sexually exploits a child to benefit himself or another person, shall be punished with imprisonment for a maximum of 10 (ten years) and/or a fine of a maximum of Rp. 200,000,000 (two hundred million rupiah)

Law no. 23 of 2002 concerning Child Protection explains that a child has the right to live, develop, and participate with human dignity and to receive protection from violence and discrimination. By examining the material regarding the obligation to the state and society to truly protect children as outlined in Article 59 and Article 66 of Law no. 23 of 2002 concerning Child Protection, even though in society there are children who secretly remain silent in prostitution activities but must still be seen as children who must be protected and kept away from activities that are contrary to the dignity of a child. The defendant received money from employing victim witnesses so this third element was fulfilled by the defendant's actions (Mufidah & Mahpur, 2006).

Non-Penal Measures. Sexual exploitation of children is a form of coercion and violence against children and forced labor and constitutes modern slavery. A statement from the World Congress against the sexual exploitation of children held in Stockholm in 1996, defined sexual exploitation as: “sexual abuse by an adult and remuneration in cash or kind to a child or a third person or another person. Children are treated as sexual and commercial objects.”

The causes of child sexual exploitation include factors such as severe poverty, the possibility of relatively high incomes, the low value attached to education, family dysfunction, cultural obligations to help support the family, or the need to earn money to simply survive, all factors that make children vulnerable. against child sexual exploitation. To make a living children are sold into the sex trade to provide food and shelter and in some cases money to feed the addiction of family members or themselves (Atmasasmita, 1983b).

The judge's subjective consideration was why he chose Law No. 23 of 2002 concerning Child Protection because this law was more appropriate than the Trafficking Law. Therefore, we use the child protection law, because even if the child knows or doesn't know, the child wants it himself and the role of the parents is to support the child to become a commercial sex worker so that all blame cannot be placed entirely on the defendant (Atmasasmita, 1983b). The judge considered the victimology aspect so that the verdict given was lighter than the public prosecutor's request. This is not stated explicitly in the decision.

Criminal acts can be classified into 2 (two) parts, namely: Material criminal acts & formal criminal acts. In general, crime prevention efforts can be carried out through "penal" and "non-penal" means. Efforts to overcome criminal law through penal means in regulating society through legislation are essentially a manifestation of a policy step. Efforts to overcome crime with criminal law (penal means) focus more on the "repressive" nature (suppression/eradication/suppression) after a crime or criminal act has occurred. Apart from that, in essence, penal facilities are part of law enforcement efforts, therefore criminal law policy is part of law enforcement policy. Although the use of "penal" criminal law tools in a criminal policy is not a strategic position in overcoming criminal acts of corruption, it is also not a policy step that can be simplified by taking an extreme stance to eliminate "penal" criminal law tools. Because the problem does not lie in its existence but in the policy of its use.

Non-penal means. A rational effort to control or overcome criminal acts of corruption is not only to use penal means (criminal law) but can also to use non-penal means. Non-penal means have a preventive effect on crime. The preventive efforts referred to are efforts carried out before a criminal act of corruption occurs by dealing with the factors driving corruption, which can be implemented in several ways:

1. Moralistic methods can be carried out in general through human mental and moral development, sermons, lectures, and counseling in the fields of religion, ethics, and law.
2. This abolitionist method arises from the assumption that corruption is a crime that must be eradicated by first exploring its causes and then leaving it to efforts to eliminate these causes. Then examine the problems currently facing society as well as individual incentives that lead to acts of corruption, increase public legal awareness, and punish people who have committed corruption based on applicable law (Atmasasmita, 1983b).

CONCLUSION

From the results of the discussion above, restorative justice in resolving criminal acts committed by children is very concerned with rebuilding relationships after a criminal act has occurred, rather than exacerbating the rift between the perpetrator, victim, and society which is the character of today's modern criminal justice system. Restorative justice is a "victim-centered" reaction to crime that allows victims, perpetrators, families, and community representatives to pay attention to the losses resulting from criminal acts. The focus of attention is directed to reparations, restoration of damage, losses suffered as a result of crime, and initiating and facilitating peace. This is to replace and avoid decisions regarding who wins or loses through an adversarial (hostile) system. Restorative justice has an important meaning in resolving criminal acts involving children.

A restorative criminal justice process holds the view that achieving justice is not only a matter of the government and the perpetrators of crime, but more than that it must provide total justice that cannot ignore the interests and rights of victims and society. Restorative justice aims to restore the condition of crime victims, perpetrators, and interested communities (stakeholders) through a case resolution process that does not only focus on trying and punishing perpetrators, especially in cases involving children. The sense that restorative justice creates a map of the interests and roles of each, both the victim, the perpetrator of the crime, and the community involved so that there is a basis for distributing responsibility for crimes according to their respective positions and roles, to achieve restorative quality justice.

The application of the principles of restorative justice and the diversion process as an effort to formally resolve criminal acts committed by children has been regulated clearly and firmly in Law Number 11 of 2012, in its implementation of course it also needs to be supported by complete facilities and infrastructure and increased understanding. towards law enforcement officers who handle children, such as the construction of LPAS and LPKS, the Socialization of the SPPA Law, and SPPA Education and Training for law enforcement officers who handle children.

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