



SOCIALIZATION OF LEGAL PROTECTION OF CHILDREN AGAINST THE LAW

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ABSTRACT

Protection of children who are in conflict with the law in the juvenile criminal justice process at every stage starting from investigation, prosecution and trial to juvenile correctional institutions has not been able to provide protection that can provide a sense of justice for children and even children's rights are often neglected. So far, children are often positioned as objects and tend to harm children. In child cases, sometimes children are perpetrators, victims and witnesses, so they need serious protection and handling to anticipate this so that it does not have a wider impact and harm children, such as in the cases of Mario Dandi and Agnes. The handling of child cases must be carried out by officials who really understand children's problems. In Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Protection of children in conflict with the law is progressing with a paradigm shift in handling cases of children in conflict with the law, the process of resolving child cases can not only be resolved through the judicial process but can also be resolved outside the judicial process through diversion with a restorative justice approach involving all both the perpetrators, victims and witnesses with other related parties to sit together to find solutions for resolving child cases in the best interest of the child.

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INTRODUCTION

The development of people's lives and today's technological advances indirectly also trigger the development and diversity of criminal behavior in society (Mbah et al. 2023). Crime can happen to anyone, not only adults but also often happens to children if we pay attention to the information in the print and electronic media in cases of children. Those dealing with the law tend to increase. The protection of children in our constitution is stated very explicitly that the state guarantees the child's right to survival, growth and development and guarantees protection from violence and discrimination. The existing laws and regulations are felt to be unable to provide protection for children who are in conflict with the law, so an update is needed. According to

Barda Nawawi, actually efforts to reform law in Indonesia have started since the birth of the 1945 Constitution. This cannot be separated from the foundation and at the same time the goals to be achieved as formulated in the preamble of the 1945 Constitution, namely to protect all Indonesian people and to promote prosperity based on Pancasila. This is the general policy line that forms the basis as well as the goal of Indonesian legal politics. This also underlies and becomes the goal of legal reform, including reform in the field of criminal law and crime prevention. In its development, Indonesia has had special regulations regarding child protection, namely Law Number 4 of 1979 concerning Child Welfare, Law Number 3 of 1997 concerning Juvenile Court which was

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subsequently replaced by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and Law -Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection. Even though we already have a good set of rules, they are still deemed ineffective in resolving cases of children in conflict with the law (Pujiyono, 2020).

Every child has dignity that deserves to be upheld and every child who is born must get his rights without the child asking (Harahap, 2014). This is in accordance with the provisions of the convention on the rights of the child which was ratified by the Indonesian government through Presidential Decree No. 36 of 1990 which stated the general principles of child protection, namely non-discrimination, the best interests of the child, survival and development, and respect for children's participation. Legal protection of children is an obligation for all of us considering that children are the next generation of the nation who have a strategic role in realizing the nation's ideals, therefore children must receive guidance and protection so that they can grow and develop properly. Children are a group that is vulnerable to the occurrence of a crime either as a victim, witness or as a perpetrator of a crime. In the Case of Agnes Gracia Officially Report Mario Dandy Cases of Obscenity (Burfeind, 2015).

In the provisions of Article 1 point 2 of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection stipulates that child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and dignity, and receive protection from violence and discrimination. For children whose cases are further processed up to court, in the application of punishment, law enforcement officials often pay less attention to the rights and psyche of children, especially children whose parents are incapacitated, who do not have legal advisors or personal lawyers (Burns, 2014).

They just accept the decision given by the judge, even though they actually have the right to appeal and review. However, they

often do not use this because they do not know how and to whom to ask for these rights. Protection of children who are in conflict with the law in the criminal justice process has often been positioned as an object and tends to harm children. In child cases, sometimes children as perpetrators, victims and witnesses in an act require serious handling and must be carried out by officials who understand children's problems. In Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The protection of children who are in conflict with the law has progressed in the process of resolving child cases not only to be resolved through the judicial process but also to be resolved outside the judicial process through diversion with a restorative justice approach.

METHOD OF EXECUTION

This research uses normative or doctrinal legal research methods. Normative legal research is intended to study and examine legal norms in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and other laws and regulations that are related to the application of diversion as an effort to protect children who have trouble with the law as stated in Convention on the Rights of the Child and The Beijing Rules (Haling, 2018). The object of research in writing this article is how diversion is implemented through Law Number 11 of 2012 concerning the Juvenile Criminal Justice System as a form of legal protection for children who are in conflict with the law. Sources of legal information use primary legal materials (relevant regulations and documents) for further qualitative analysis (Djamil, 2013).

The approach used is statutory, conceptual, analysis and comparison of law in helping solve the problem formulation. The data sources for this research consist of primary legal materials, secondary legal materials to be followed up with an overall analysis of laws and regulations, literature, data, and several related documents, as well as tertiary legal materials to explain and assist in analyzing primary legal materials. as well as secondary.

RESULT AND DISCUSSION

Mechanism of Children in Conflict with the Law

Based on Article 1 paragraph (2) Law no. 11 of 2012 concerning the Juvenile Criminal Justice System, which refers to children in conflict with the law, are as follows:

"Children in conflict with the law are children who are in conflict with the law, children who are victims of criminal acts, and children who are witnesses of criminal acts"

The development of today's society and technology also indirectly affects the level of crime that occurs with various modes (Ernis, 2016), we can see the tendency to increase this crime from reporting in the mass media, both print and electronic media, crimes that occur are not only committed by adults but also but also carried out by children either as perpetrators or as victims of a crime. The large number of cases of children dealing with the law is of course very worrying considering that children are the next generation of the nation that must be protected by the state. the trend of increasing cases committed by these children with various modes must be addressed immediately (Hadisuprpto, 2008).

Romli Atmasmita in Wagiaty Soetodjo, argues that children's problems can be seen from two things, namely intrinsic and extrinsic from child delinquency. In handling and protecting children who are in conflict with the law, they have quite extensive problems, not only as a result of the child's actions which result in victims, but far from this, why do children commit criminal acts which ultimately harm themselves (Edyanto, 2017). The judicial process that must be taken by children as a form of accountability for their

actions has an impact on the development of the child, the stages of each judicial process starting from the level of investigation, prosecution, trial and coaching in juvenile correctional institutions take quite a long time and it is not uncommon for deviations and injustice of any of these processes. The rights of children that are inherent and protected by law are often ignored by the judicial process, it is felt that they still do not protect the best interests of the child so that other efforts are needed in resolving cases of children who are in conflict with the law (Moris, 2001; Harefa, 2016).

In its development, the protection of children in conflict with the law cannot only be resolved through the judicial process but can also be resolved outside the criminal justice process or what is known as diversion, where the settlement involves perpetrators, victims, families of perpetrators/victims, and other parties who related to jointly seeking a fair solution by emphasizing restoration to its original state, and not retaliation, which is known as a restorative justice approach. (Article 1 paragraph (6) of Law Number 11 of 2012 concerning the Juvenile Justice System).

(Anak) In the juvenile justice system law emphasizes that there is an obligation for law enforcement officials to seek diversion first by prioritizing restorative justice specifically for children whose criminal penalties are under 7 (seven) years in resolving child cases. The settlement outside the judicial process is expected to be able to provide a sense of justice for children who are in conflict with the law and by prioritizing the best interests of the child. The socialization results are presented in **Figure 1**.



Figure 1 Socialization Children of Law

In this outreach program (**Figure 1**), children are given the opportunity to interact with legal professionals, such as lawyers, judges and law enforcement officers, through court visits, legal workshops and question and answer sessions.

In a positive and supportive atmosphere, children are invited to participate in court simulations, understand the legal process from various perspectives, and participate in role-plays that involve realistic legal situations. The children's enthusiasm is very high, they enthusiastically ask questions, analyze cases, and feel the sensation of what legal professionals do.

Conducive socialization is reflected in this participatory approach, which helps children understand the importance of law in maintaining justice and public order. The positive impact of this program can also be felt in the long term, because the children who are involved tend to develop a deep understanding of ethical values and social responsibility which is necessary in respecting and obeying the law. They may be inspired to pursue further education in law or even contribute to society through careers related to justice and law enforcement, potentially creating a generation that has a positive outlook and real influence on the legal system in the future.

The Role of the State in Fulfilling Children's Rights Through the Diversion Mechanism as a Form of Legal Protection for Children in Conflict with the Law

The important role of diversion is felt primarily in providing protection for children's human rights. When a child commits a crime, there must be a settlement. Settlement of cases through formal criminal justice channels, has a

negative impact on children's development as previously explained. According to Harefa, in the book *Selekta Selekta Juvenile Criminal Law*, since the time of investigation/investigation at the police, children's rights have the potential to be violated. Continuing at the stage of prosecution by the public prosecutor until the trial in court. At trial in court, children have a high chance of being subject to criminal sanctions or action sanctions (Aprilianda, 2012). Even the bad effects continue when the child is in a penitentiary. Schools of crime and stigmatization have the potential to get children. Therefore, placing children in the formal criminal justice process must be avoided, because it violates children's human rights. Settlement of juvenile criminal cases through diversion is carried out with full of family values. Therefore, diversion will keep the child away from bad effects that can disrupt the child's development and future. Diversion should pay more attention to children's human rights (Ariani, 2014).

There are 4 (four) scopes of children's human rights (basic rights), which are formulated in the Convention on the Rights of the Child, namely: the right to survival (survival), the right to develop (development), the right to protection (protection) and the right to participate in community life (participation). According to British national criminologist Tony F. Marshall, stated that

"restorative justice is a process whereby all the parties with a stake in a particular offense come together to resolve collectively how to deal with the aftermath of the offense and its implications for the future"

The socialization results are presented in **Figure 1**



Figure 2 Socialization Criminal Behavior

Restorative justice is a philosophy, processes, ideas, theories and interventions that emphasize repairing harm caused or expressed by criminal behavior. This is related to provocative ideas, which seek to direct the process of resolving juvenile criminal cases outside of official courts to rehabilitate children, children to victims and society. In the restorative justice model, law enforcement officers facilitate meetings between the suspect and the victim to develop the best settlement scheme that is considered fair by the parties to the dispute (Djanggih, 2018).

According to the Beijing Rules, discretion is permitted in juvenile cases to divert the criminal justice system at all stages and levels. Such diversion is understandable because youth play a very important role as the next generation considering the sustainability of a country. This notion is in accordance with the Declaration on the Rights of the Child which states that children shall enjoy special protection, and shall be provided with opportunities and facilities, legally and in other ways, to enable them to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and under conditions of freedom and dignity. In enforcing laws for this purpose, the best interests of the child must be a primary consideration.

In this program (Figure 2), youth who have been involved in criminal activities are given the opportunity to participate in various positive activities, such as skills training, moral lessons, and psychological counseling. Through interactions that occur in a supportive and caring environment, these youths are given the opportunity to understand the impact their criminal actions have on themselves and society.

In socialization that runs conductively, the youths are given role models and support from counselors and mentors who have managed to get out of the cycle of crime. In addition, they also engage in group discussions that promote understanding of positive values, development of interpersonal skills, and ways of coping with life's challenges. Through this intensive interaction, young people can form a more positive outlook on life, internalize ethical values, and learn to manage emotions and conflicts in a constructive way.

Overall, this type of rehabilitation program creates a supportive environment and encourages youth to change their criminal behavior. Conductive socialization in this context includes

various factors, such as positive interactions with role models, learning positive values, developing useful skills, and strengthening social support. Through this approach, these youths have a greater chance of avoiding re-engagement in criminal behavior and building a better future.

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At the court level, in resolving cases of children in conflict with the law, it is obligatory to seek diversion procedures and restorative justice in accordance with statutory provisions for 2 (two) cases of children who are in conflict with the law. Settlement efforts by uniting both the perpetrator's family and the victim's family with a settlement model using mediation, conciliation and restitution methods simultaneously. Thus, it is imperative that efforts are made to avoid cases of children in conflict with the judicial process (litigation) and are diverted outside the judicial process (non-litigation) which is carried out through a transfer procedure with a restorative approach based on law, especially in the Pulo Gadung area, East Jakarta with Community Service Socialization. Faculty of Law, University of Jakarta with Resource Person Yapiter Marpi and friends.

CONCLUSION

Protection for child victims of crime as regulated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. In Article 1 paragraph (2) Child Protection is all activities that guarantee and protect children and their rights so that they can live, grow and develop and participate optimally in accordance with human dignity and values, and receive protection from violence and discrimination. The purpose of child protection according to law is to guarantee the fulfillment of children's rights so that they can live, grow and develop optimally in accordance with the dignity and human dignity, and receive protection from violence and discrimination, for the realization of quality, noble and prosperous Indonesian children.

Protection of children is the obligation and responsibility of all of us, child victims must receive attention and protection of their rights. Handling cases of children who are in conflict with the law, especially child victims,

must be handled specifically, both repressive and preventive measures. Legal protection for children as witnesses is given in every judicial process starting from the examination at the police level to the court level. Statements of ordinary witnesses or witnesses Victims are very important in uncovering an event that occurred and experienced by a child as a result of a crime in uncovering the truth in court.

Author's declaration

Authors' contributions and responsibilities

The authors made substantial contributions to the conception and design of the study. The authors took responsibility for data analysis, interpretation and discussion of results. The authors read and approved the final manuscript.

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Availability of data and materials

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Competing interests

The authors declare no competing interest.

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