



The Urgency of the Implementation of the Children Hearing System Towards Children of Criminal Acts in the Diversion Process

Ellyana Masrurotin¹; Irma Cahyaningtyas²

¹ Master's Program in Law at Diponegoro University, Indonesia

² Faculty of Law, Diponegoro University, Indonesia

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Abstract

In essence, children cannot protect themselves from various kinds of actions that cause mental, physical, social losses in various fields of life and livelihood. In protecting himself, children must be assisted by others in protecting themselves, considering the situation and conditions in the implementation of the Juvenile Criminal Court which are foreign to him. The next issue that will be discussed in this paper is how the idea of the *Children's Hearing System* can be implemented in the renewal of the juvenile criminal justice system in Indonesia and whether the *Children's Hearing System* can be used as a means to achieve *Restorative Justice* in the juvenile criminal justice system in Indonesia. In addition, this study also uses a conceptual approach by analyzing theories related to the *children hiring system* and *restorative justice* as well as looking at how the law behaves *in concerto* (law in reality). Thus, the purpose of the juvenile criminal justice system is to promote the welfare of children (*The Promotion Of The Well Being Of The Juvenile*) and pay attention to the principle of Proportionality (*The Principle of Proportionality*). Advancing children's welfare is the main focus, namely to avoid the use of *The Avoidance Of Merely Punitive Sanction* purpose *Children Hearing System* is to ensure the safety and well-being of vulnerable children and youth through a decision-making tribunal called the Children's Panel. who are facing serious problems in their lives are asked to go to a meeting called the *Children Hearing System*.

Keywords: *Children Hearing; Child Crime; Diversion*

Introduction

In essence, children cannot protect themselves from various kinds of actions that cause mental, physical, social harm in various fields of life and livelihood. In protecting themselves, children must be assisted by others in protecting themselves, considering the situation and conditions in the implementation of the Juvenile Criminal Court which is foreign to them.[1] Children also need to get assistance in the implementation of criminal justice because the statutory decisions cause mental, physical, and social losses for the children themselves.

The State of Indonesia is a democratic legal state and is based on a constitution that has been accepted by the entire Indonesian nation. (Ariyanti, 2019) For this reason, law enforcement officers must

always uphold human rights and ensure that all citizens have the same position in law and government. and must uphold the law and the government with no exceptions. The rules in the law emphasize what things should be done by citizens as an obligation, things that are allowed to be done as an option, and things that are not allowed to be done as a form of prohibition. The legal system has certain goals and objectives. The aims and objectives of the law can be in the form of people who actually act against the law, also in the form of the legal act itself, and even in the form of state apparatus or apparatus as law enforcers.

The child has indeed committed a criminal act, giving punishment in the form of a criminal based on the act committed, of course, it will result in hampering his life, because the best thing for a child is that his interests are fulfilled along with their needs and rights, not only the need for clothing, food, and shelter, but concerning (Eleanora *Masri* , 2018)

Children in their period of growth and development will be very vulnerable to be affected by the situation and conditions of the surrounding social environment. Misdeeds committed by children caused by the absence of proper direction and guidance can turn into "child delinquency or child crime (juvenile delinquency)". Romli Atmasasmita stated that Juvenile Delinquency is:^[2]

"Every act or behavior of a child under the age of 18 and unmarried which is a violation of applicable legal norms and can endanger the personal development of the child concerned."

Children's crimes or violations of the law committed by children are essentially the result of children's limitations in understanding and protecting themselves from the various influences of the existing system, which in turn can cause children to be included in the juvenile criminal justice system^[3]. Article 1 Number 1 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System states, The juvenile criminal justice system is the entire process of resolving cases of children in conflict with the law, starting from the investigation stage to the stage of mentoring after serving a crime.

The law is managed in such a way from various aspects of the approach, including from a psychological perspective, so that discrepancies or gaps between legal norms and social reality can be overcome by legal reform or law reform. The enforcement and application of law is carried out more thoroughly so that the formulation of legal rules or norms, whether adopted from everyday terms or made special terms, is an image of life in society about justice.^[4] Every human behavior and action is motivated by various factors including psychological factors. Psychology is often defined as the science of the soul or the science of human behavior "Human Behavior" then in relation to the study of law, will see the law as one of the reflections of human behavior. A person can be said to be healthy if his body and soul are healthy. If a person's body is healthy but his soul is not, it is the same as a sick person. The soul in question is a person's psyche, including his mentality. That's because there is psychological or mental health. Because to be fully healthy, it is necessary not only to be physically healthy but also mentally healthy. (Malonda, 2019)

For the sake of children's mental growth and development, it is necessary to determine the difference in treatment in the procedural law and the threat of punishment. In the criminal justice system, a juvenile delinquent case is handled from investigators, public prosecutors, and judges who try the case. In this connection, the exception setting from the provisions stipulated in Law no. 8 of 1981 concerning the Criminal Procedure Code, and Law no. 11 of 2012 concerning the Juvenile Criminal Justice System. The implementation of detention is determined in accordance with the interests of the child, and the differentiation of criminal threats for children is determined by the Criminal Code. Where the punishment is determined (half) of the maximum criminal threat imposed on adults, while the imposition of capital punishment and life imprisonment is not applied to children. (Afifah, 2014)

The search for a child's identity often triggers children to become perpetrators of criminal acts committed in UUSPPA referred to as a child in conflict with the law. Children in conflict with the law are children in conflict with the law, children who are victims of criminal acts, and children who are witnesses of criminal acts.^[5] Children who are in conflict with the law or become perpetrators of criminal acts in the criminal justice process need to get legal protection. Because children as part of the younger generation need guidance and protection in order to ensure complete, harmonious, harmonious and balanced physical, mental and social growth and development which is an interesting topic to discuss. (Warikkie, 2019)

Assessment is an important stage in the preparation of Behavioral intervention is problematic because it becomes the basis for knowing the characteristics of behavioral disorders and planning intervention assessment is the process of collecting data about a person, which will be used to make decisions about the services to be provided to that person. Assessment in special education has two objectives, namely classification and program planning. In the assessment of behavioral disorders, the classification function here is intended to diagnose the specific types of problematic behavior in children, and how they are graded. An understanding of children's problematic behavior is a requirement to provide interventions that are appropriate to the typical characteristics of problematic behavior. The program planning function in the assessment is intended to plan programs to address problematic behavior in children based on the results of the assessment. Problematic behavior assessment and intervention is an integral part of the learning approach of children with behavior disorders at school. (Mahabbati, 2014)

Discussing policy issues for resolving child cases cannot be separated from efforts to overcome child crime. Diversion as an effort to achieve *restorative justice* only reaches repressive efforts that focus on preventing crime after the crime has occurred and does not reach preventive efforts (prevention/deterrence/control) before the crime occurs. If we pay attention, this is where the rigidity of the diversion appears. In addition, in the implementation there are still several obstacles, namely:^a

- . There are still many officers/law enforcement officers who do not know, do not understand and do not understand about restorative justice and diversion so that there are different perceptions in its implementation.
- b. Diversion is understood as compensation (cost of compensation for stolen, damaged goods, medical expenses, customary fees, and others) so that no agreement is reached because the nominal figure is not under the wishes of the victim/family or child/family.
- c. The behavior or level of desire of law enforcers who tend to not want to realize the diversion goal is that one party is partial (victim/perpetrator) and has not been able to act as a mediator or facilitator.

Based on the above, for that, we need a way to optimize it. There is now a system that is much better, flexible, and not as rigid as a diversion, namely the "*Children Hearing System*" in Scotland. Therefore, it would be better if we look at the juvenile criminal justice system in Scotland, in particular, the "*Children Hearing System*".

Scotland has long been proud of its unique procedure, the "*Children's Hearing system*", for dealing with children who require mandatory state intervention in their lives, either because of care and protection or because they have committed a crime.^[6] The Scottish government does not have a special court for delinquent children. Children who commit delinquency are taken to the *Children's Hearing System* which has no sanction to punish them. Therefore, a study on this matter deserves to be taken into account in the criminal justice system in Indonesia.

So based on the description of the background above, then the problems that will be discussed in this paper are how the idea of the *Children's Hearing System* can be implemented in the renewal of the juvenile criminal justice system in Indonesia and whether the *Children's Hearing System* can be used as a means to achieve *Restorative Justice* in Indonesia's juvenile criminal justice system? Therefore, the purpose of this study is to further examine the policy regarding the *Children's Hearing System* as an idea of renewal in the juvenile criminal justice system in Indonesia and the policy regarding the idea of the *Children's Hearing System* as an Effort to Achieving *Restorative Justice* in the Juvenile Criminal Justice System in Indonesia.

Research Methods

The method is a means to find, formulate, analyze a particular problem to reveal a truth, because the method in principle provides guidelines on how researchers study, analyze and understand what they learn. This research activity is an attempt to analyze and construct methodologically related to the problem to be studied. Systematic is based on a certain and consistent system, meaning that there are no contradictory things within a certain framework.[7] In addition, this study also uses a conceptual approach by analyzing theories related to the *children hiring system* and *restorative justice* as well as looking at how the law behaves *in concerto* (law in reality) on matters relating to the settlement of minor criminal cases in accordance with with the problem under study.

Discussion and Analysis

Children Hearing System as an Effort to achieve Restorative Justice

The implementation of the juvenile criminal justice system has the aim of realizing the welfare of children. This is as confirmed in the United Nations (UN) regulations in the *United Nation Standard Minimum Rules For The Administration Of Juvenile Justice* (SMRJJ) or The Beijing Rules, which state that the objectives of juvenile justice (Aims Of Juvenile Justice), are as follows: ^[8]

“The juvenile justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offense.

Thus, the purpose of the juvenile criminal justice system is to promote the welfare of children (*The Promotion Of The Well Being Of The Juvenile*) and pay attention to the principle of Proportionality (*The Principle of Proportionality*). Advancing children's welfare is the main focus, namely to avoid the use of Criminal sanctions that are purely punitive in nature (*Avoidance Of Merely Punitive Sanctions*). The purpose of the proportional principle is to curb the use of sanctions, most of which are stated in terms of rewards commensurate with the severity of the violation of the law (*Mostly Expressed in terms of just desert in relation to the gravity off the offense*), but also pay attention to the consideration of personal circumstances (*be based on the consideration of personal circumstance*).^[9]

Children Hearing System is a Scottish system of care and justice unique to children and adolescents due to non-there is a special court for delinquent children in Scotland he. *Children Hearing System* introduced by the Social Work Service Act 1968, and governed by the *Children Hearing System* Act 2011. This arose out of concerns in the late 1950s and early 1960s that change was needed in the way society dealt with children and youth who were at risk or at risk.

A Committee was formed in 1960 under Lord Kilbrandon to investigate possible solutions for children with problems. Lord Kilbrandon is a senior Scottish judge. The committee members set up by Lord Kilbrandon were four justices of the peace, four lawyers, a police chief, a principal, a psychiatrist and a probation officer.

The Kilbrandon Report defines the core principles that were embodied through the creation of the Children's Hearing System ^[10]:

- Whether troubled children or youth need the same care needs and whether those needs must be met.
- The importance of a preventive approach, which involves early identification and diagnosis of the problem.
- Once evidence has been gathered, the focus of the trial should be on how best to meet the needs of children and youth.
- When it comes to deciding how the needs of children and youth are to be met, the welfare of children and youth is an important consideration.
- The child or adolescent's family should be part of the discussion about how best to meet the child's or youth's needs.
- Mandatory measures of care should be applied only where the welfare of the child or adolescent cannot be guaranteed.
- Through the appointment of lay members, children of a local youth community must participate in decisions about children or youth.

Finally, On April 15, 1971 *Children's Hearing* took over most of the court's responsibility for dealing with children and young people under the age of 16, and in some cases under the age of 18, who committed an offense or needed care and protection. The way the Children Hearing System works is^[11]:

1. a child or adolescent is referred to a child reporter,
2. child reporters decide whether they can go to the Children's Hearing or not.

The goal *Children Hearing System* is to ensure the safety and well-being of vulnerable children and young people through a decision-making tribunal called the Children's Panel. Children and young people who are facing serious problems in their lives are asked to go to a meeting called the *Children Hearing*. The Children's Panel makes decisions at the hearing about the help and guidance needed to support the child or young person. Decisions are made in the best interests of the child or youth to help and protect them. One of the basic tenets of the *Children's Hearing System* is that children and adolescents who commit violations, and children and adolescents who need care and protection, are treated in the same system. ^[12]

The main and most important principle is that a child's needs must be assessed so that appropriate treatment can be applied. This can only be achieved by an objective examination of all the facts and circumstances surrounding it. It is inappropriate to expect one agency to determine the facts in dispute and establish the needs of each child in full information about the personal circumstances of the child's family.

There are many different reasons why a child is asked to go to court (Children Hearing) which are ^[13]:

- if people are worried about their safety
- if they have problems with going to school
- if they have a problem with the police
- if it is feared that they are not being properly cared for at home

At the *Children's Hearing*, a children's hearing or what is usually called a children's panel is a legal meeting arranged to consider and make decisions about children and young people who may be experiencing problems in life they. *Children's Hearing* is held privately and only those who have the legal right to be there, or are permitted to be there by the presiding member present.

The assembly consists of three members of the local community who act as members of the lay tribunal, called panel members. They give their free time (they are not paid) to sit in court. The trial is carried out by listening to the child's condition and then deciding whether mandatory supervisory action is required for the child and, if so, what kind of supervisory action should be taken. Panel members undertake training and development activities on their own time to ensure that they are equipped to make decisions in the best interests of children and youth, with fair hearings.^[14] The results of the trial contain decisions in the form of:

- Whether or not official and mandatory supervisory measures are required in resolving cases.
- Panel members need more information to help them make decisions about what is best for children and youth. They can postpone the trial to be able to make a decision for the child or youth if the situation is urgent.
- Mandatory supervisory measures are needed to assist children or youth by making mandatory supervision orders. Where children or adolescents live with adoptive caregivers or relatives.

The Children's Hearing System aims to extract any information from the child's side. This is done by a panel member who will ask questions to ensure the child is getting the right help. If panel members are concerned about a child, they may make what is called a Mandatory Supervision Order. A mandatory supervision order is a supervision that involves the Department of Social Work and Local Authorities in the child's life and they must look after and assist the child.

Most children who receive Mandatory Supervision remain at home, but if a panel member is very concerned about the safety of the child, they may decide that the child needs to stay somewhere else for a while to keep the child safe.

When looking at the objectives of the juvenile justice system contained in the *United Nation Standard Minimum Rules For The Administration Of Juvenile Justice* (Beijing Rules) which are listed in Rules 5.1 as follows:

"The juvenile justice system shall emphasize the well being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offense."(The justice system for children must prioritize the welfare of the child and ensure that any reaction to child lawbreakers is appropriate for the child and the violation of the law).

It can be said that the *Children's Hearing System* is one of the Scottish government's reform ideas in order to achieve a juvenile criminal justice system that pays attention to the welfare of children and the principle of *proportionality*. tackling crime against children, the *Children's Hearing System* does not only cover repressive efforts where crime prevention efforts focus on the nature of eradicating and suppressing the crime after the crime has occurred, but also includes preventive efforts in which crime prevention efforts are more focused on the nature of prevention/deterrence/control. before the crime occurred. This can be seen where the *Children's Hearing System* does not only deal with children who have problems with the police but also children whose safety is feared, children who have problems in schools. and children who are feared that they are not being properly cared for at home. In this way, preventive measures as conducive factors centered on social problems or conditions that can directly lead to crime can be avoided.

Based on the above, the existence of the *Children's Hearing System* is very helpful in terms of efforts to resolve children's cases and handling children's cases so that it can be used as an effort to optimize the juvenile criminal justice system in Indonesia. *Children Hearing System* can be implemented as a renewal idea in the juvenile criminal justice system in Indonesia, because basically the scope of reforming the criminal law system in Indonesia consists of legal substance, legal culture and legal structure, all of which must not contradict the basic idea of the criminal law system. national law, namely

the balance of the basic ideas of Pancasila (the values of Pancasila as the basis of the national legal system) and the balance of national development goals.

The Children Hearing System itself has 3 (three) basic ideas, namely divinity, humanism and society. The three basic ideas of the *Children Hearing System* are in accordance with the idea of reforming the juvenile criminal justice system in Indonesia, especially reforms in the aspect of legal culture. Renewal in the aspect of legal culture is a manifestation of the system of legal cultural values (philosophy of law, legal principles, legal theory, legal science and awareness or attitude of legal behavior). Therefore, the renewal of the juvenile criminal justice system in the aspect of legal culture is also an embodiment of the science of criminal law, especially the science of national criminal law based on Pancasila, so that it has the idea of balance in religious/divine values, human/humanistic values, social values (nationalistic/democratic- democracy/social justice).

The three basic ideas of the *Children Hearing System* are in accordance with the values of the Pancasila, the first precept, because in the implementation of the *Children Hearing System* will not give different treatment just because of differences in their beliefs, but only from the physical and mental state of the child in order to achieve this. child welfare. *Children Hearing System* is in accordance with the values of Pancasila, the second precept because in the implementation of the *Children Hearing System* children will be treated properly in accordance with their dignity as God's creatures who have the same rights and obligations, children will also be taught to uphold the values humanity, are taught to have a high sense of solidarity and tolerance so that in the future children will not act arbitrarily. In accordance with the values of Pancasila, the third, fourth and fifth precepts because in the implementation of the *Children Hearing System* it will not discriminate against children by degree and class, believing that all children have the same degree before the law as adults, mentoring, mentoring and Coaching is carried out in a family way and will be fair and wise in making the best decisions for children.

The application of the *Childrean Hearing System* as an Effort to Achieve Diversion in the

Term juvenile criminal justice system is a translation of the term "*The Juvenile Justice System*", which is a term used to define a number of institutions incorporated in the courts, which include the police, public prosecutors and legal counsel, supervisory agencies, child detention centers, and child development facilities^[15]. The Juvenile Criminal Justice System is the entire process of resolving cases of children in conflict with the law, starting from the investigation stage to the stage of mentoring after serving a criminal period.

Gordon Bazemore stated that the objectives of the juvenile criminal justice system (SPPA) vary according to the paradigm of the juvenile criminal justice system adopted^[16]. The three most well-known child paradigms include the individual development paradigm (*individual treatment paradigm*), the retributive paradigm (*retributive paradigm*), and the restorative paradigm (*restorative paradigm*).

Children's Hearing System is by the restorative paradigm (*restorative paradigm*) introduced by Gordon Bazemore. The purpose of the Juvenile Criminal Justice System with a restorative paradigm is that in achieving the goal of imposing sanctions, the victim is included to have the right to be actively involved in the judicial process^[17]. The purpose of imposing sanctions is achieved by looking at whether the victim has been restored, the victim's satisfaction, the amount of compensation, the perpetrator's awareness of his actions, the number of repair agreements made, the quality of work services, and the overall process that occurs. The forms of sanctions are restitution, perpetrator-victim mediation, victim services, community restoration, direct service to victims, or restorative fines^[18].

Restorative Justice does not prioritize a deterrent effect for perpetrators but emphasizes the perpetrator's awareness of the responsibility for the actions that have been done. Restorative justice places a higher value on the direct involvement of the parties. Victims can restore the element of control, while perpetrators are encouraged to assume responsibility as a step in correcting mistakes caused by

crimes or in building a value system.^[19] Restorative justice or deliberation-based justice is a diversion process, in which all rights parties involved in a criminal act must jointly solve problems and create an obligation to make things better by involving victims, children, and society in seeking a solution to repair, reconciliation, and reassurance that is not based on retaliation. Restorative justice in the settlement of crimes committed by children is very concerned with rebuilding relationships after the occurrence of a crime, rather than exacerbating the rift between perpetrators, victims, and society which is the character of the modern criminal justice system today.^[20]

At this time the juvenile criminal justice system in Indonesia adheres to the Restorative paradigm, so that the juvenile criminal justice system in Indonesia can also be known as the "*Restorative Justice System*" in accordance with the provisions of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA).).

Restorative justice is a theory that emphasizes the recovery of losses caused or incurred by criminal acts. This loss recovery will be achieved through cooperative processes that include all interested parties.^{[21][22]} *Restorative justice* is a thought that responds to the development of the criminal justice system by focusing on the need for community involvement and victims who feel excluded from the mechanisms that work in the current criminal justice system. Tony

Marshall stated:^[23]

"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." (Restorative justice is the process by which all parties involved in a particular offense come together to collectively resolve how to deal with the consequences of the offense and its implications for the future).

The juvenile criminal justice system that adheres to the concept of restorative justice or the *Restorative Justice System* at the time of imposing sanctions will actively involve perpetrators, victims, the community and law enforcers. The characteristic of restorative justice is the "*Just Peace Principle*" or justice based on peace (peace) between perpetrators, victims, and the community, so that this court sees crime as an act by the perpetrator against another person or society rather than against the state.^[24] In the concept of restorative justice, the achievement of these goals can only be done through a dialogue mechanism between victims and perpetrators and the involvement of community elements.^[25] The perpetrator works actively to repair the loss suffered by the victim and also confronts the victim or the victim's representative. Victims also play an active role in all stages and assist in determining sanctions for perpetrators. The community acts as a mediator who supports the victim and supports the fulfillment of the perpetrator's obligations. Law enforcers act as facilitators during mediation.

The concept *Restorative Justice* for children in conflict with the law is considered good to be applied in the juvenile criminal justice system. *Restorative Justice* in the juvenile criminal justice system aims to prevent children from being punished and replaced with guidance. Through a *restorative justice*, it is hoped that recovery for victims can be realized, the purpose of punishment for the perpetrators will be successful and public order can be achieved. *Restorative justice* is one alternative to realize justice in accordance with the objectives of the law. Justice that will be obtained by all parties, both perpetrators, victims and the community.^[26]

In accordance with the Neutralization Theory by Syeks and Matza, which states that people behave evil or deviate due to a tendency among them to rationalize norms and values. (which should function as a deterrent to malicious behavior) according to their own perceptions and interests. According to Syeks and Matza, these are people who fail to apologize for their actions (*Apologetic Failure*) and follow the lifestyle of other criminals, through the process of justifying their behavior.^[27]

And Matza detail the forms or tendencies of neutralization among criminals, namely^{Syke}:

1. *The Denial of Responsibility,*

namely they consider themselves as victims of social pressures, for example, lack of affection, social and unfavorable environment and so on.

2. *The Denial of Injury*

That is, they consider their actions not to cause big losses in society.

3. *The Denial of the Victim*

Namely they call themselves heroes.

4. *Condemnation of the condemners*

That is, they assume that the person who condemns them is a hypocrite, a hypocrite or a hidden criminal.

5. *Appeal to higher Loyalty*

That is, they feel themselves trapped between the will of the wider community and the law with the needs of the small group or minority from which they come or the minority where they come from or belong to.

Until now in Indonesia, one variation of the *restorative justice* is the diversion system. Diversion is the transfer of the settlement of children's cases from the criminal justice process to processes outside of criminal justice. Not much different from the concept of the *Children Hearing system* which aims to divert or expel children who have committed crimes from the criminal justice system. Indeed *Children hearing system* has been regulated in the juvenile criminal justice system, especially in Law Number 11 of 2012 concerning the Criminal Justice System in the form of Diversion, however, the difference between diversion and the *Children Hearing system* is that in the *Children hearing system* there are no sanctions for children, there are only Mandatory Supervision Orders and the child can still stay at home.

If the Indonesian state is able to implement the *Children Hearing* like Scotland, then this can be a breakthrough or new thing in the Indonesian juvenile criminal justice system which is using the *Restorative Justice paradigm*, because in its implementation it is carried out in a familial manner that can be carried out by children who have problems with the law. ABH), children's parents, panel members consisting of the community, child psychologists and also the social worker office.

Children Hearing system is a new endeavor that is much closer to achieving the goals of the *Restorative Justice System*. *The Children Hearing system* can also reach preventive efforts in preventing children from taking an action that is against the law. This is because the *Children's Hearing* does not only reach children who have problems with the police (Law) but also children who have problems at school or children who are not cared for properly at home because the environment is one of the factors that causes children to take actions that violate the law. Both the family environment and social environment. Moreover, *Children Hearing system* also reaches all children who have experienced crimes against children.

Children's Hearing system is an educative juvenile criminal justice process because it does not have to hurt the mental development of the child as a result of stigmatization or *labeling*. It is almost the same as diversion, but what makes the difference is that in the *Children's Hearing* there are preventive measures to deal with children's problems. As previously explained, children who are brought to the *Children's Hearing* are not only children who have problems with the police (law), children who have

problems at school and children who are not properly cared for by their parents, but also children of the victims of crime themselves. This is a preventive effort so that they do not fall into doing things that violate the law. This may be used as an example to be applied in Indonesia.

Although diversion has been implemented in Indonesia, it does not reach preventive efforts. Therefore, it is important for us to consider adding *children hearing* to our criminal justice system. Maybe not all, but we take the preventive efforts.

Conclusion

1. The goal *Children Hearing System* is to ensure the safety and well-being of vulnerable children and young people through a decision-making tribunal called the Children's Panel. Children and young people who are facing serious problems in their lives are asked to go to a meeting called the *Children Hearing*. The Children's Panel makes decisions at the hearing about the help and guidance needed to support the child or young person. Decisions are made in the best interests of the child or youth to help and protect them. One of the basic tenets of the *Children's Hearing System* is that children and young people who offend, and children and youth who need care and protection, are dealt with in the same system. *Children's Hearing system* is an educative juvenile criminal justice process because it does not have to hurt the mental development of the child as a result of stigmatization or *labeling*.
2. It is almost the same as diversion, but the difference is that in the *Children's Hearing* there are preventive measures to deal with children's problems. As previously explained, children who are brought to the *Children's Hearing* are not only children who have problems with the police (law), children who have problems at school and children who are not properly cared for by their parents, but also children of the victims of crime themselves. This is a preventive effort so that they do not fall into doing things that violate the law. This may be used as an example to be applied in Indonesia. Although diversion has been implemented in Indonesia, it does not reach preventive efforts. Therefore, it is important for us to consider adding *children hearing* to our criminal justice system. Maybe not all, but we take the preventive efforts.

Suggestions

1. Build special schools for children who commit crimes in order to stabilize children's mentality so that they can change their attitudes
2. Increase the number of child prisons and child detention centers according to the local area.
3. More concerned with the use of diversion related to the occurrence of child crimes.

References

- Afifah, W. (2014). Child Criminal Liability Legal Conflict. *DiH: Journal of Legal Studies*, 10(19). <https://doi.org/10.30996/dih.v10i19.283>
- Ariyanti, V. (2019). Law Enforcement Policy in the Indonesian Criminal Justice System. *Juridical Journal*, 6(2), 33–54.
- Eleanora, FN, & Masri, E. (2018). Special Guidance for Children according to the Juvenile Criminal Justice System. *Journal of Scientific Studies Bhayangkara University, Greater Jakarta*, 18(3), 215–230.

- Mahabbati, A. (2014). Problematic Behavior Patterns and Intervention Designs in Children with Mental Disorders of Conduct Disorder Based on Functional Behavioral Assessment. *Educational Dynamics*, 21(01), 1–21.
- Malonda, JR (2019). Functions of Legal Psychology in Criminal Law Enforcement in Indonesia. *Lex Crimen*, 8(5), 36–43.
- Soekanto, S. (2002). *Introduction to Legal Research*. UI Press.
- Warikkie, APP (2019). Special Protection for Children in Child Criminal Case Processes. *Lex Crimen*, 8(5), 13–19.
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")* Adopted by General Assembly resolution 40/33 of 29 November 1985 Part one.
- Wahyudi, S. (2009). Enforcement of Juvenile Criminal Justice with a Progressive Legal Approach in the Context of Child Protection. *Journal of Legal Dynamics*, 9(1), 29–39. <http://dx.doi.org/10.20884/1.jdh.2009.9.1.52>
- Children's Hearing Scotland*, Retrieved from <http://www.chscotland.gov.uk/thechildrens-hearings-system/>
- Children's Hearing Scotland. How Does The Children's Hearings System Work? Retrieved from www.chscotland.gov.uk/the-children-s-hearings-how-does-the-children-s-hearings-system-work/
- Djamil, MN (2013). *Children are not to be punished: Notes on the discussion of the Juvenile Criminal Justice System Law (UU-SPPA)*. Jakarta: Sinar Graphic.
- Yustia, DA (2013). Application of Restorative Justice to Parents of Child Traffickers in the Perspective of the Indonesian Criminal Justice System. *Journal of LITIGATION Law*, 14(1).
- Ernis, Y. (2017). Diversion and Restorative Justice in the Settlement of Juvenile Justice System in Indonesia. *Scientific Journal of Legal Policy*, 10(2), 163-174. <http://dx.doi.org/10.30641/policy.2016.V10.163-174>
- Yunus, Y. (2013). Analysis of the Concept of Restorative Justice through the Diversion System in the Juvenile Criminal Justice System in Indonesia. *Rechts Vinding Journal: National Law Development Media*, 2(2), 231-245.
- Makara, T. (2013). *Legal Assessment on the Application of Restorative Justice in the Settlement of Crimes Perpetrated by Children*. Jakarta: National Legal Development Agency of the Indonesian Ministry of Law and Human Rights.
- Prayitno, K. (2012). Restorative Justice for Judiciary in Indonesia (Philosophical Juridical Perspective on Law Enforcement In Concreto). *Journal of Legal Dynamics*, 12(3), 407-420. <http://dx.doi.org/10.20884/1.jdh.2012.12.3.116>
- Zulfa, EA (2010). Restorative Justice and Revitalization of Traditional Institutions in Indonesia. *Indonesian Journal of Criminology*, 6(2).
- Yulia, R. (2009). Restorative Justice as an Alternative to Legal Protection for Victims of Domestic Violence. *Journal of Law & Development*, 39(2), 238-254.
- Hadisuprpto, P. (2010). *Understanding Children's Delinquency and Its Management*. Malang: Harmonious.
- Gultom Maidin, *Legal Protection of Children in the Juvenile Criminal Justice System in Indonesia*, (Bandung: PT. Rafika Pratama), 2012, p. 3
- Nashriana. (2011). *Criminal Law Protection for Children in Indonesia*. Jakarta: Raja Grafindo Persada, p. 29.
- Marlina. (2012). *Juvenile Criminal Justice in Indonesia, Development of the Concept of Diversion and Restorative Justice*. Medan: PT Refika Aditama, p. XV.
- Abintoro Prakoso, *Law and Legal Psychology*, Laksbang Graphics, Yogyakarta, 2014, p. 9.

- Article 1 point 2 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.
- Norrie, K. (2000). Human rights challenges to the children's hearing system. *Journal of the Law Society of Scotland*, 45(4),
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")*
Adopted by General Assembly resolution 40/33 of 29 November 1985 Part one, p. 3.
- Wahyudi, S. (2011). *Implementing the Idea of Diversion in Renewing the Juvenile Criminal Justice System in Indonesia*. Yogyakarta: Genta Publishing, p. 2.
- Children's Hearing Scotland*, Retrieved from <http://www.chscotland.gov.uk/the-childrenshearings-system/>
- Children's Hearing Scotland. How Does The Children's Hearings System Work Retrieved from www.chscotland.gov.uk/the-children-s-hearings-system/how-does-the-children-hearings-system-work/
- Wahyudi, S. Op.Cit, p. 35 (in Djamil, MN (2013). *Children Are Not To Be Punished: Notes on Discussion of the Juvenile Criminal Justice System Law (UU-SPPA)*. Jakarta: Sinar Graphic.
- Djamil, MN (2013). *Children are not to be punished: Notes on the discussion of the Juvenile Criminal Justice System Law (UU-SPPA)* Jakarta: Sinar Graphic.
- Yustia, RD.DA (2013). Application of Restorative Justice to Parents of Child Traffickers in the Perspective of the Indonesian Criminal Justice System, *Journal of Legal Studies*
- Ernis, Y. (2016), Diversion and Restorative Justice in the Settlement of Criminal Cases Children in Indonesia, *Scientific Journal of Legal Policy*, 10(2),
- Yunus, Y. (2013) Analysis of the Concept of Restorative Justice through the Diversion System in the Juvenile Criminal Justice System in Indonesia, *Rechts Vinding Journal of Legal Development Media National*,
- Makarao, T. (2013) *Legal Studies on the Application of Restorative Justice in the Settlement of Criminal Acts done by children*. National Legal Development Agency of the Indonesian
- Prayitno, KP (2012). Restorative Justice for Judiciary in Indonesia (Philosophical Juridical Perspective on Law Enforcement In Concreto). *Journal of Legal Dynamics*, 12(3), <http://dx.doi.org/10.20884/1.jdh.2012.12.3.116>.
- Zulfa, EA (2010). Restorative Justice and Revitalization of Traditional Institutions in Indonesia. *Indonesian Journal of Criminology*, 6(2).
- Yulia, R. (2009). Restorative Justice as an Alternative to Legal Protection for Victims of Domestic Violence. *Journal of Law and Development*, 39(2).
- Hadisuprpto, P. (2010). *Children's Delinquency Understanding and Overcoming it*. Malang: elararas, p. 21.

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