

**THE ROLE OF CORRECTIONAL CENTERS IN OPTIMIZING DIVERSION
AS A RESTORATIVE JUSTICE EFFORT IN THE JUVENILE CRIMINAL
JUSTICE SYSTEM**

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Abstract

This study examines *the Optimization of Diversion as a Restorative Justice Effort in the Juvenile Criminal Justice System* which is motivated by the importance of child protection as a legal subject that is still in the development stage. The juvenile criminal justice system in Indonesia through Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law) regulates the diversion mechanism as an alternative to resolving cases outside the formal judicial channels. Diversion is expected to prevent children from negative stigma, provide opportunities to improve themselves, and restore relationships between perpetrators, victims, and society through the principle of restorative justice. This type of research uses a normative legal approach complemented by field studies. The data of this research was obtained through literature studies in the form of primary, secondary, and tertiary legal materials, and was complemented by primary data through interviews with law enforcement officials and related parties. The analysis technique used is qualitative analysis with an emphasis on synchronization between legal norms and implementation in the field. The results of the study show that the application of diversion in the juvenile criminal justice system still faces several obstacles, such as limited human resources, lack of public understanding of the concept of restorative justice. However, diversion has been proven to have a strategic function in realizing child protection, preventing labeling effects, and supporting children's social reintegration. Therefore, the optimization of diversion can be carried out through strengthening regulations, increasing the capacity of law enforcement officials, and continuous socialization to the community.

Keywords: *Diversion; Child Protection; restorative justice; Judicial System
Child Crime*

INTRODUCTION

Children are potential in the future for parents in particular, and also for the country in general, it is the children who will later play a role in determining the nation's history as well as a mirror of the nation's life attitude in the future.⁶ From the moment a child is born, they are born free, they must not be eliminated or eliminated, therefore a child's independence must be protected and expanded both in terms of obtaining the right to life and also the right to protection both the protection of his own parents, family, society, and the nation and also the state.

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⁶ Wagiati Soeteddjo and Melani, *Juvenile Criminal Law* (Bandung: Refika Aditama, 2011), 5.

Studies related to Children in Conflict with the Law (ABH) in the view of the general public seem to only lead to legal approaches and perspectives, from the sociological aspect there are research questions related to why and how children can be involved in a crime. In Indonesia, the study of children in general, and especially ABH from the perspective of Sociology, is still very limited.⁷ Currently, studies related to Children in Conflict with the Law or Children as Perpetrators of Crimes, are not only studied from the perspective of law and sociology, but are also discussed in psychology, criminology, education, environment, health and policy. This means that the theme or issue of ABH is a theme or issue of study that has entered cross-disciplinary disciplines. The phenomenon of children as perpetrators of crime (children in conflict with the law/ABH) is a phenomenon that exists in the midst of people's lives today. This shows that crime can occur and is not only committed by adults, but can also be committed by children.

The case of children in conflict with the law, according to data from the Directorate General of Corrections of the Ministry of Law and Human Rights (currently the Directorate General of Corrections), shows an increasing trend in the period 2020 to 2023. As of August 26, 2023, nearly 2,000 children were in conflict with the law. A total of 1,467 children are in custody and are still undergoing judicial proceedings, while 526 children are serving sentences as prisoners.⁸ With the increase in crime cases involving children as criminals, it causes concern for all parties, especially for parents.

The development of the times that affect the advancement of information technology has an impact on children's behavior. Adolescence is the time when a child experiences significant changes in several things such as changes in physics, psyche, mindset, and attitude.⁹ Delinquency committed by children has developed into a criminal act. Child delinquency or criminal acts committed by children are not only influenced by internal factors but also external factors, including the social environment, the environment where the child lives, family conditions, and so on. Data on Complaints for Cases of Fulfillment of Special Rights and Protection of Children recorded 1,800 cases reported during January-September 2023. The Special Child Protection Cluster or PKA was recorded to reach 563 cases, of the 563 cases, 33 of which were cases of Children Facing the Law (ABH) as perpetrators. This category ranks fourth with the highest number of cases. In the period from 2020 to 2022, the National Legal Development Agency (BPHN) of the Ministry of Law and Human Rights recapitulated 2,302 cases of children as perpetrators of crimes. In the report, the most common cases were theft with 838 cases. Then, drugs with 341 cases, persecution 232 cases, and other violations of the law 491 cases. A total of 48 minors were even recorded as murderers. Crimes such as molestation or harassment to rape are also rampant, reaching 199 cases.¹⁰.

⁷ I Djaya, *Understanding Children Who Are Facing the Law* (Palangkaraya: JDHIN-BOHN, 2020).

⁸ John Advent Krisdamarjati, "Increasing Cases of Children in Legal Conflict, Alarm for Society and State," *Compass*, last modified 2023, <https://www.kompas.id/baca/riset/2023/08/28/meningkatnya-kasus-anak-berkonflik-hukum-alarm-bagi-masyarakat-dan-negara>.

⁹ Muhammad Ishar Helmi Asep Syaifuddin Hidayat, Samul Anam, "Legal Protection of Children as Narcotics Couriers," *Journal of Shar-i Social and Cultural* Vol.5 No.3 (2018): 308, <https://jurnal.uinjkt.ac.id/index.php/salam/article/view/10416>.

¹⁰ Ajeng Dwita Ayuningtias, "KPAI Records 33 Cases of Law Violations Involving Minors," last modified 2024, accessed February 28, 2025, <https://goodstats.id/article/kpai-catat-33-kasus-pelanggaran-hukum-libatkan-anak-di-bawah-umur-qgSMA>.

However, in reality, not all children who are facing the law can be asked to make diversion efforts, because diversion can only be carried out if the child who is facing the law commits a criminal act whose threat of punishment is under 7 years and is the first time to commit a criminal act. One example of a child who is facing the law as happened in Palembang, South Sumatra recently, against a criminal case committed by four children facing the law (ABH) has now received his fate after being involved in a murder and rape case against AA (13), a junior high school student at TPU Talang Kerikil Palembang or a Chinese cemetery in early September 2024. They received different verdicts from the panel of judges of the Palembang District Court in a hearing held on October 10, 2024. The verdict was lower than the public prosecutor's demand that the death penalty be commuted.¹¹

The underlying principle is that children are individuals who are in the process of growth and development, so a legal effort is needed that will later aim to provide protection, guidance, and reintegration of the child into society. The Juvenile Criminal Justice System in Indonesia, which is regulated in Law Number 11 of 2012, carries the concept of *restorative justice* as the main approach. One of the real implementations of this concept is through the *diversion mechanism*, which aims to resolve children's cases outside the formal judicial channels. For this diversion, it is necessary to have the role of correctional centers in optimizing the implementation of diversion in the juvenile criminal justice system in Indonesia and how restorative justice can be integrated into the juvenile criminal justice system in Indonesia.

METHOD

In this study, the author uses a type of normative legal research. The normative juridical approach was chosen because this research is based on the study of laws and regulations that regulate *diversion* and *restorative justice*, examining written norms, especially Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA), Supreme Court Regulation Number 4 of 2014 concerning Guidelines for the Implementation of Diversion, Indonesian Prosecutor's Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice, and the Indonesian Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. This approach is used to examine the extent to which the regulation has accommodated the principles of child protection and *the best interest of the child*. This research not only looks at normative aspects in laws and regulations, but also examines how these provisions are implemented in practice and what are the obstacles and supporting factors as additional data for supporting data in the field. With this combination, it is hoped that it can provide a more comprehensive picture of the optimization of diversification in strengthening the implementation of restorative justice in Indonesia, both in terms of normative and practical. The data collection technique in this study is data carried out by combining norms or rules that apply in society, namely by analyzing legal documents and data obtained in the field, namely by recording all information submitted by informants as supporting data to strengthen normative analysis. This study also has qualitative characteristics because the researcher makes interview

¹¹ Dewi Agutina, "The Fate of 4 ABH in the Case of the Murder of a Junior High School Student in a Chinese Cemetery, 10 Years in Prison to 'School' at LPKS," last modified 2024, <https://www.tribunnews.com/regional/2024/10/11/nasib-4-abh-kasus-pembunuhan-siswi-smp-di-kuburan-cina-penjara-10-tahun-hingga-sekolah-di-lpks>.

guides, both structured and unstructured whose results will be more comprehensive than the data obtained from the interview results.

RESULT AND DISCUSSION

THE ROLE OF FATHERS IN DIVERSIFICATION OPTIMIZATION

Children who are dealing with the law really need a special approach that is different from adult criminal offenders. Children who are facing the law can be pinned for every child who has the status of a suspect, victim, and even a witness in a criminal case. According to Article 1 paragraph (2) Law No.11 of 2012 about the Child Criminal Justice System, children who are in conflict with the law are children who are in conflict with the law, children who are victims of the law, and children as witnesses to criminal acts.¹² Children in conflict with the law are children who have reached the age of 12 (twelve) years but have not reached 18 (eighteen) years and are suspected of committing criminal acts.

There are three main categories of children that can be said to be children facing the law (ABH), which are as follows:

1. The Child of the Perpetrator of a Criminal Act, namely a child who is suspected of violating the criminal law.
2. Children of Victims of Crime, namely children who experience physical, mental, or loss due to a crime.
3. Witness Children, namely children who provide information in the judicial process for a criminal act.

In Article 1 paragraph (2) Law No.11 of 2012 about the Juvenile Criminal Justice System, children who are facing the law consist of:

1. Children who are in conflict with the law, namely children who are 12 years old but not yet 18 years old who are suspected of committing criminal acts.
2. Children who are victims of criminal acts are children under the age of 18 who experience physical, mental, and/or economic suffering caused by criminal acts.
3. A child who is a witness to a criminal act, namely a child under the age of 18 who can provide information for the purposes of investigation, prosecution, and examination in court about a criminal case that he or she hears, sees, and experiences himself.¹³

In this case, children who are in contact with the law (ABH) really need a special approach because these ABH children are still in the stage of psychological development and also social development that really need protection, rehabilitation, and reintegration, not just punishment.

Diversion comes from the word *divert*, which means divert. In the context of juvenile criminal law, diversion is the transfer of the settlement of children's cases from the criminal justice process to the process outside the criminal court. According to Article 1 number 7 of the Law on the Juvenile Criminal Justice System, diversion is the transfer of the settlement of children's cases from the criminal justice process to the process outside the criminal court. Diversion is a form of legal protection to prevent children from the negative effects of the formal justice system. Some of the definitions of diversion according to experts, are as follows:

¹² Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, n.d.

¹³ Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, Article 1 paragraph 2.

1. Barda Nawawi Arif, diversion is the transfer of case settlement from the formal judicial process to the extrajudicial process, which prioritizes non-punitive and restorative resolutions.¹⁴
2. Initially, diversion is an effort to resolve child cases outside the formal judicial channels, to ensure child protection, prevent labeling, and support social reintegration.¹⁵
3. Romli Atmasasmita explained that diversion is a strategy in the juvenile criminal justice system that aims to avoid imprisonment, and emphasizes the peaceful settlement of cases with the principle of restorative justice.¹⁶
4. Marlina, diversion is an effort to shift the process of resolving children's cases towards a non-penal mechanism to ensure the best interests of children and prevent the negative effects of the formal criminal justice system.¹⁷

The definition of diversion from some of the experts mentioned above, it can be concluded that diversion is an effort to divert the process of resolving cases outside the formal court which is non-punitive in nature to ensure child protection and aims to avoid imprisonment so that it can be resolved peacefully and children avoid being labeled as criminals. In the case of children who are facing the law, diversion is very necessary to implement it. The objectives of the implementation of diversion are as follows:

1. Preventing Children from Entering the Formal Justice Process
The function of diversion in this case is to prevent children from a long criminal process that can be detrimental to their psychological development. Diversion aims to prevent children from entering the judicial process, especially for minor cases, in order to avoid negative impacts on children's personalities.¹⁸
2. Avoiding the Stigmatization of Children as Criminals
With diversion, children are not labeled as "criminals" by society, so the chances of social reintegration become greater." Diversion prevents children from social labeling and increases the chances of rehabilitation and social reintegration.¹⁹
3. Settling Matters Peacefully and Educatively
Diversion functions as a means of resolving conflicts in a deliberative and participatory manner, which is oriented towards coaching, not revenge. Through diversion, conflict resolution is carried out peacefully, with an educational and non-punitive approach, which is in accordance with the principles of child protection.²⁰
4. Instilling Children's Responsibility for Their Actions

¹⁴ Barda Nawawi Arif, *Potpourri Criminal Law Policy* (Jakarta: Prenadamedia Group, 2014), 152.

¹⁵ Start, *Child Protection in the Criminal Justice System* (Bandung: Alumni, 2005), 67.

¹⁶ Romli Atmasasmita, *Legal Reform, Human Rights and Law Enforcement* (Bandung: Refika Aditama, 2001), 108.

¹⁷ Marlina, *Children's Criminal Justice in Indonesia: Development of the Concept of Diversion and Restorative Justice* (Bandung: Refika Aditama, 2009).

¹⁸ Marlina, *Children's Criminal Justice in Indonesia: Development of the Concept of Diversion and Restorative Justice*, 82.

¹⁹ Start, *Child Protection in the Criminal Justice System* (Jakarta: Ghalia Indonesia, 2002), 70.

²⁰ Arif, *Potpourri Criminal Law Policy*, 157.

Diversion also allows children to understand the consequences of their actions and take direct responsibility. Diversion gives space for children to take responsibility for their actions and make amends for the losses caused by their actions.²¹

5. Reducing the Burden on Children's Correctional Institutions

With diversion, children do not enter correctional institutions so that the capacity of the institution can be more focused on severe cases. Diversion is also a criminological strategy to reduce *overcrowding* in correctional institutions and encourage the efficiency of case handling.²²

6. Supporting the Principles of Restorative Justice

The main function of diversion is as an implementation of restorative justice that emphasizes restoration, not punishment. Diversion is a real implementation of the principle of restorative justice that seeks to restore the relationship between perpetrators, victims, and society.²³ The following is the diversion data at the Palembang Class I Correctional Center office

Table 1: Diversion Data in 2024

PERMINTAAN DIVERSI KEPOLISIAN														
No	DIVERSI	JAN	FEB	MAR	APR	MEI	JUN	JUL	AGS	SEP	OCT	NOV	DES	JUMLAH
JUMLAH PERMINTAAN DIVERSI														86
1	AKOT	2	2	1	1	1	3	3	1	0	0	4	0	18
2	PELAYANAN MASYARAKAT	3	1	0	0	1	1	0	1	0	2	1	5	15
3	PELATIHAN KERJA	0	0	0	0	0	0	0	0	0	0	0	0	0
4	LPKS	0	3	0	0	1	0	1	0	0	0	0	0	5
5	PENGEMBALIAN KERUGIAN	0	4	1	1	6	4	3	0	0	0	0	1	20
	TOTAL DIVERSI BERHASIL	5	10	2	2	9	8	7	2	0	2	5	6	58
6	DALAM PROSES	0	0	0	0	0	0	0	0	0	0	0	0	0
7	DIVERSI GAGAL	3	0	1	7	2	3	6	3	0	2	1	0	28
JUMLAH PELAKSANAAN DIVERSI														86
PERMINTAAN DIVERSI KEJAKSAAN														
No	DIVERSI	JAN	FEB	MAR	APR	MEI	JUN	JUL	AGS	SEP	OCT	NOV	DES	JUMLAH
JUMLAH PERMINTAAN DIVERSI														13
HASIL KESEPAKATAN DIVERSI KEJAKSAAN														
1	AKOT	0	0	0	0	0	0	0	0	0	0	0	0	0
2	PELAYANAN MASYARAKAT	0	0	0	0	0	0	0	0	0	0	0	0	0
3	PELATIHAN KERJA	0	0	0	0	0	0	0	0	0	0	0	0	0
4	LPKS	0	0	0	0	0	0	0	0	0	0	0	0	0
5	PENGEMBALIAN KERUGIAN	1	0	2	0	0	1	2	0	0	1	0	0	7
	TOTAL DIVERSI BERHASIL	1	0	2	0	0	1	2	0	0	1	0	0	7
6	DALAM PROSES	0	0	0	0	0	0	0	0	0	0	0	0	0
7	DIVERSI GAGAL	0	3	1	0	0	0	1	0	0	0	0	1	6
JUMLAH PELAKSANAAN DIVERSI														13
PERMINTAAN DIVERSI PENGADILAN														
No	DIVERSI	JAN	FEB	MAR	APR	MEI	JUN	JUL	AGS	SEP	OCT	NOV	DES	JUMLAH
JUMLAH PERMINTAAN DIVERSI														41
HASIL KESEPAKATAN DIVERSI PENGADILAN														
1	AKOT	1	0	0	0	2	1	0	0	2	4	1	0	11
2	PELAYANAN MASYARAKAT	0	0	0	0	0	0	0	0	0	0	0	0	0
3	PELATIHAN KERJA	0	0	0	0	0	3	0	0	0	0	0	0	3
4	LPKS	0	0	0	0	0	0	0	0	0	0	0	0	0
5	PENGEMBALIAN KERUGIAN	0	4	0	0	0	0	0	1	4	0	0	0	9
	TOTAL DIVERSI BERHASIL	1	4	0	0	2	4	0	1	6	4	1	0	23
6	DALAM PROSES	0	0	0	0	0	0	0	0	0	0	0	0	0
7	DIVERSI GAGAL	0	0	2	1	1	1	3	3	2	2	3	0	16
JUMLAH PELAKSANAAN DIVERSI														41

MENGETAHUI,
KEPALA BAPAS KELAS I PALEMBANG

PALEMBANG, 31-Dec-24
KASI BIMBINGAN KLIEN ANAK

SUDIRWAN
NIP. 19700218 199003 1 001

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²¹ Romli Atmasasmita, *Restorative Justice and Criminal Law* (Bandung: CV Mandar Maju, 2005), 110.

²² Siti Musaroh, *Diversion in the Juvenile Criminal Justice System* (Yogyakarta: Pustaka Siswa, 2015), 133.

²³ Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, General Explanation Point 3.

The 2024 BAPAS Palembang Children's Client Guidance Diversion Report can be seen from the table above that at the investigator stage, namely at the Police level, there are 86 Assistance and Diversion activities and from a total of 58 activities have been successfully diverted and as many as 28 activities have been declared to have failed in the process of mentoring and diversion of Children's clients, while at the prosecutor's level there are 13 Assistance and Diversion activities Activities and from a total of these activities, as many as 7 activities were successfully diverted and as many as 6 activities were declared to have failed in the process of mentoring and diversion. For the Diversion stage at the court level, there are 41 Assistance and Diversion activities and of the total 23 activities, diversion was successfully carried out and as many as 18 activities were declared failed in the process of mentoring and diversion of Children's clients.

Table 2: Diversion Data in 2025



KEMENTERIAN HUKUM DAN HAK ASASI MANUSIA RI
KANTOR WILAYAH SUMATERA SELATAN
BALAI PEMASYARAKAT KELAS I PALEMBANG
Jalan Kapten A. Rival Nomor 90, Kec. Ilir Barat I Sumatera Selatan 30121
Telepon (0711) 350 216

LAPORAN REKAP HASIL KESEPAKATAN DIVERSI BKA BAPAS PALEMBANG
TAHUN 2025

PERMINTAAN DIVERSI KEPOLISIAN														
No	DIVERSI	JAN	FEB	MAR	APR	MEI	JUN	JUL	AGS	SEP	OCT	NOV	DES	JUMLAH
JUMLAH PERMINTAAN DIVERSI		11	5	4	1	2	0	0	0	0	0	0	0	23
HASIL KESEPAKATAN DIVERSI KEPOLISIAN														
1	AKOT	4	1	0	1	1	0							7
2	PELAYANAN MASYARAKAT	2	0	0	0	0	0							2
3	PELATIHAN KERJA	0	0	0	0	0	0							0
4	LPKS	0	0	0	0	0	0							0
5	PENGEMBALIAN KERUGIAN	3	4	1	0	0	0							8
TOTAL DIVERSI BERHASIL		9	5	1	1	1	0	0	0	0	0	0	0	17
6	DALAM PROSES	0	0	0	0	0	0							0
7	DIVERSI GAGAL	2	0	0	0	1	0							5
JUMLAH PELAKSANAAN DIVERSI		11	5	1	1	2	0	0	0	0	0	0	0	20
PERMINTAAN DIVERSI KEJAKSAAN														
No	DIVERSI	JAN	FEB	MAR	APR	MEI	JUN	JUL	AGS	SEP	OCT	NOV	DES	JUMLAH
JUMLAH PERMINTAAN DIVERSI		1	2	1	1	0	0	0	0	0	0	0	0	5
HASIL KESEPAKATAN DIVERSI KEJAKSAAN														
1	AKOT	0	1	0	0	0	0							1
2	PELAYANAN MASYARAKAT	0	0	0	0	0	0							0
3	PELATIHAN KERJA	0	0	0	0	0	0							0
4	LPKS	0	0	0	0	0	0							0
5	PENGEMBALIAN KERUGIAN	0	1	0	0	0	0							1
TOTAL DIVERSI BERHASIL		0	2	0	0	0	0	0	0	0	0	0	0	2
6	DALAM PROSES	0	0	1	1	0	0							0
7	DIVERSI GAGAL	1	0	1	0	0	0							0
JUMLAH PELAKSANAAN DIVERSI		1	2	2	1	0	0	0	0	0	0	0	0	6
PERMINTAAN DIVERSI PENGADILAN														
No	DIVERSI	JAN	FEB	MAR	APR	MEI	JUN	JUL	AGS	SEP	OCT	NOV	DES	JUMLAH
JUMLAH PERMINTAAN DIVERSI		3	1	1	0	3	2	0	0	0	0	0	0	10
HASIL KESEPAKATAN DIVERSI PENGADILAN														
1	AKOT	0	1	0	0	0	0							1
2	PELAYANAN MASYARAKAT	0	0	0	0	1	0							1
3	PELATIHAN KERJA	0	0	0	0	0	0							0
4	LPKS	0	0	0	0	1	0							1
5	PENGEMBALIAN KERUGIAN	0	0	0	0	0	0							0
TOTAL DIVERSI BERHASIL		0	1	0	0	2	0	0	0	0	0	0	0	3
6	DALAM PROSES	0	0	0	0	0	0							0
7	DIVERSI GAGAL	1	0	0	0	1	2							3
JUMLAH PELAKSANAAN DIVERSI		3	1	0	0	3	2	0	0	0	0	0	0	9

MENGETAHUI,
 KEPALA BAPAS KELAS I PALEMBANG

PALEMBANG, 02-Jul-25
 KASI BIMBINGAN KLIEN ANAK

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The Recap Report on the Results of the Diversion Agreement for Children's Client Guidance of BAPAS Palembang in 2025 can be seen from the table above that at the investigator stage, namely at the Police level, there are 23 Assistance and Diversion activities and of the total 17 activities have been successfully diverted and as many as 3 activities have been declared to have failed in the process of mentoring and diversion of Children's clients while at the prosecutor's level there are 5 Assistance and Diversion activities Activities and from a total of these activities, 2 activities were successfully diverted and as many as 2 activities were declared to have failed in the process of mentoring and diversion. For the Diversion stage at the court level, there are 9 Assistance and Diversion activities and of the total 3 activities, 3 activities were successfully diverted and as many as 6 activities were declared to have failed in the process of mentoring and diversion of Children's clients.

Restorative justice is an approach to resolving criminal cases that focuses on the recovery of crimes due to criminal acts, by involving the perpetrator, the victim and the community. In the practice of criminal law enforcement, the word *Restorative justice or Restorasi Justise* is used which in Indonesian is known as restorative justice.

Restorative justice is a restoration of relationships and reparations that the perpetrator or his family wants to commit against the victim of a criminal act or against the victim's family as one of the peace efforts carried out outside the court with the intention and purpose that legal problems that arise as a result of a criminal act can be resolved properly by reaching an agreement and an agreement between the two parties. The main principle of restorative justice is the participation between the victim and the perpetrator, and also the participation of the community as a facilitator in resolving the case, so that there is a guarantee for the child or perpetrator to no longer disturb the harmony that has been created in the community.²⁴

Basically, the concept of Restorative Justice is simple, that is, the measure of justice is no longer based on the appropriate retribution from the victim to the perpetrator, whether physically, psychologically, or punitively, but the painful act can be healed with the support given to the victim so that it can signal to the perpetrator to take responsibility with the help of the family and also the help of the community if necessary.

Law enforcement is not an activity that can stand alone but a close mutual relationship and related to society where the structure of society can have an influence either in the form of providing social facilities so that law enforcement can be carried out, or it can also provide obstacles so that it can cause law enforcement to be unable to be carried out or also less optimally carried out.

There are three basic concepts for the formation of *Restorative Justice*:

- a. *There be a restoration to those who have been injured*
- b. *The offender has an opportunity to be involved in the restoration if they desire*
- c. *The court systems role is to preserve the public order and the communities role is to preserve a just peace* , namely the court plays a role in maintaining public order and the community also plays a role in preserving a just peace.²⁵

²⁴ Grandson Herlina et al., *Protection of children who are in conflict with the law* (Jakarta: PT. Raja Grafindo Persada, 2004), 203.

²⁵ Wikipedia, "The Free Encyclopedia," http://en.wikipedia.org/wiki/Restorative_justice.

The concept of *restorative justice* has existed before as an alternative to resolving child criminal cases. The United Nations (UN) Working Group on Juvenile Justice defines *restorative justice* as the process of all parties involved in a particular crime sitting together to solve problems and think about how to overcome future consequences. This process is basically carried out through discretion (policy) and diversion, which is the transfer from the criminal justice process outside the formal process to be resolved through deliberation.²⁶

To optimize the implementation of diversion, the role of the Correctional Center is urgently needed. The Correctional Center is one of the Technical Implementation Units (UPT) under the Ministry of Immigration and Corrections of the Republic of Indonesia Directorate General of Corrections of the South Sumatra Regional Office, which has the main function of community research, mentoring, guidance, supervision, and social reintegration assistance for correctional clients. BAPAS not only handles inmates, but also children in conflict with the law (ABH), both in the judicial process and after obtaining parole.

Some of the legal bases regarding BAPAS include Law Number 12 of 1995 concerning Corrections, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law), Government Regulation Number 31 of 1999 concerning the Development and Guidance of Correctional Assisted Citizens, and Permenkumham Number 7 of 2022 concerning the Organization and Work Procedures of Correctional Centers. The Correctional Center has several strategic functions, namely:

1. Community Research (Litmas)
By conducting research on the social, economic, and personality backgrounds of suspects, defendants, inmates, or children for the purposes of investigation, prosecution, and justice.
2. Guidance and Supervision
This activity is carried out on correctional clients such as inmates who receive Parole (PB), Leave Prior to Release (CMB), or Conditional Leave (CB).
3. Assistance for Children Facing the Law (ABH)
BAPAS through Community Counselors (PK) is obliged to accompany children from the investigation stage, trial, to the diversion process.
4. Social Reintegration
is by assisting the process of returning correctional clients to the community so that they do not repeat criminal acts.

The strategic role of the Community Advisor in the preparation of Litmas is to be able to conduct a thorough assessment of personal conditions, family, social environment, and criminogenic factors that affect the behavior of clients. The results of the Litmas from the Community Advisor are not only administrative, but also function as a juridical-sociological document that can provide a comprehensive picture of the client's background, potential improvements, and what recommendations are given, which is in line with the restorative justice approach.

Thus, the preparation of Litmas by Community Supervisors is a real effort to balance aspects of legal certainty, justice, and utility. Through Litmas, the process of diversion, rehabilitation, and social reintegration can be carried out in a more targeted manner, so that the goal of correctional facilities to foster inmates to return to become good members of society can be optimally achieved.

²⁶ Agency for Research and Development of Law and Human Rights, *Application of Restorative Justice in Child Crimes* (Jakarta: Tree of Light, 2016), 2.

The Correctional Center (BAPAS) is an institution that functions as a bridge between the criminal justice system and the community, so that inmates or children who are facing the law can return to a normal, independent life, and not repeat criminal acts. For adults, BAPAS helps ensure that inmates get the right to integration with appropriate supervision, while for children, BAPAS plays an important role in the restorative justice approach and diversion mechanism in accordance with the SPPA Law. The Correctional Center (BAPAS) is an institution that functions as a bridge between the criminal justice system and the community, so that inmates or children who are facing the law can return to a normal, independent life, and not repeat criminal acts. BAPAS has the authority and responsibility regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and its implementing regulations. The role of BAPAS in diversion recommendations is as follows:

1. Compiling Community Research (Litmas)

Community Counselors (PK) conduct research on children's backgrounds, family conditions, social environment, education, and potential behavior improvement. This litmas is the basis for judges, prosecutors, and investigators to consider whether the child deserves to be transferred to the diversion process.

2. Providing Diversion Recommendations

Based on the results of the litmas, the Community Supervisor (PK) provides recommendations to investigators, prosecutors, or judges regarding the appropriate form of settlement regarding the possibility of implementing diversion, the ideal form of agreement, and the coaching program that can be carried out by the child. Such as the return of the child to the parents, the obligation to attend education or training, community service activities, or it can be in the form of a peace agreement with the victim. This recommendation aims to ensure that *the best interest of the child* is maintained.

Community Counselors accompany children in every stage of diversion deliberation. The presence of BAPAS is important to balance the position of children with law enforcement officials and victims. Community Counselors accompany children during the diversion process to ensure that their rights are protected, prevent pressure or coercion, and can help bridge communication between the perpetrator, the victim, and the family.

In addition to accompanying children in every stage of diversion deliberation, Community Counselors also act as facilitators or mediators who help reach agreements between children, victims, and the community. If the diversion agreement reaches an agreement on certain obligations for the child, for example following guidance or doing social work, then BAPAS will supervise the child who is in conflict with the law (ABH) so that these obligations can be carried out properly and if the diversion agreement is approved, then BAPAS has the duty to supervise the implementation of the agreement reached. Community Counselors also provide guidance to ABH so that children do not repeat criminal acts that have been committed previously and Community Counselors also help children's social reintegration in the community.

Thus, in accordance with Law Number 22 of 2022 concerning Corrections, the role of BAPAS is not only limited to administration, but also as a facilitator, mediator, and supervisor of the success of diversion oriented to the interests of children and victim recovery. Reaching a fair agreement, rehabilitation of victims, prevention of *labeling*, and non-repetition of acts (substantive & procedural indicators). The role of BAPAS in

community guidance (litmas, diversion recommendations, mentoring) By formulating an operational definition of these terms, this research is expected to be able to maintain consistency of understanding, avoid multiple interpretations, and provide clear directions in analyzing data both normatively and empirically.

Restorative Justice Can Be Integrated In The Juvenile Criminal Justice System In Indonesia

Children as a vulnerable group that need special protection in various aspects of life, including in the criminal justice system.²⁷ Children who are confronted with the law are not solely as perpetrators of criminal acts, but also as subjects who must be treated differently from adults. The criminal justice system applied to children must prioritize the principle of protecting children's rights so that stigmatization, discrimination, and human rights violations do not occur.

The diversion process is a new mechanism in the criminal justice system in Indonesia, especially for children. In the Diversion process, the settlement of children's cases is transferred from the criminal justice process to the process outside the criminal court. The diversion process must be pursued at every stage of criminal justice, starting at the stage of investigation, prosecution, or examination at a court hearing.

According to Law Number 11 of 2012 concerning the Child Criminal Justice System, this protection is realized through the principle of diversion and the restorative justice approach. Diversion aims to shift the settlement of children's cases from the formal criminal justice process to an alternative settlement that is more educational and restorative. The restorative justice approach focuses on restoring relationships between perpetrators, victims, and society so that children have the opportunity to correct mistakes without having to receive repressive punishments.

Child protection in criminal justice is very important to be able to prevent the negative impact of formal legal processes, such as detention that can cause trauma and hinder the psychosocial development of the child. In addition, the implementation of a protection- and rehabilitation-oriented juvenile criminal justice system is considered to be able to reduce recidivism rates and help children to reintegrate into society in a positive way.

Diversion is the transfer of the settlement of children's cases from the criminal justice channel to the out-of-court channel such as deliberation or mediation while restorative justice is defined in Article 1 number 6 of the Law on the Juvenile Criminal Justice System as a settlement process that involves the perpetrator, victim, family, and related parties to seek a fair resolution or agreement with an emphasis on restoring the original state, and it is not a retaliation.²⁸

Diversion is the realization of a restorative justice approach in children's cases, as ideally realized at all stages both at the investigation, prosecution, and court stages. The implementation of diversion has not been evenly distributed at all levels, especially it is still concentrated at the police level so that it has not optimally protected the interests of children, victims, and the surrounding community.

The basic principle of diversion as the purpose of diversion itself is to correct or restore criminal acts. Providing benefits to children, victims, and the surrounding environment and can protect children's rights and prioritize the best interests of children.

²⁷ Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, Article 1 paragraphs 1 and 2.

²⁸ Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, Article 1 Paragraph 6.

Therefore, it can be concluded that the purpose of diversion itself is to prevent children from the formal judicial process so that they are free from negative stigmas so that children can reintegrate socially appropriately. Thus, the purpose and principle of diversion is not only a formal legal instrument, but can also be a reflection of the state's commitment to protect children as the nation's next generation. Diversion is a form of paradigm shift from *justice oriented to punishment* to *justice oriented to restoration*, namely a justice oriented towards punishment to justice oriented towards recovery.

As for the benefits for victims, with this diversion, it can facilitate the return of losses or compensation to the victim, such as in civil cases or minor offenses. In addition, diversion is also a path of peace between child perpetrators and victims so that an agreement can be fulfilled when diversion is carried out between the two parties. This diversion is also assisted by facilitators, namely judges, police, community supervisors to ensure that the process runs fairly and according to the needs of victims and children.

In addition to having its purpose, diversion also has a principle in its implementation, namely there must be a persuasive or non-penal approach that can give children the opportunity to correct their mistakes. In addition, the involvement of victims, perpetrators, and the community on the assumption that the response to juvenile delinquency behavior is ineffective without their involvement. The principle of good justice is implemented when each party receives fair attention, is actively involved, and benefits from the process.

CONCLUSION

The function and performance of the Palembang Class I Correctional Center in optimizing the implementation of diversion as one of the instruments of child protection in the criminal justice system is conducting Community Research (Litmas) which is the basis for consideration by judges, prosecutors, or police in making diversion decisions. Provide a comprehensive overview of the child's background, family conditions, and social environment. Compiling Recommendations for the Community Guidance Directorate (PK) provides alternative recommendations for resolving children's cases to be more in line with the principles of *restorative justice*. Carrying out Guidance and Supervision of children who undergo diversion is still under the supervision of PK so that the coaching process runs optimally. Become a Mediator between ABH, Victims, and the Community. BAPAS plays a role in mediating the interests of victims and children, while still emphasizing the restoration of social relations, not just punishment. This is based on Law Number 12 of 1995 concerning Corrections and Permenkumham Number 30 of 2018 concerning the Organization and Work Procedures of BAPAS, the function of BAPAS. In addition, it is also to further optimize the role of BAPAS in the implementation of diversion, namely with the establishment of 5 BAPAS Post Locations, namely in Kayu Agung, Tanjung Raja, Sekayu, Banyuasin and Prabumulih.

The concept of Diversion and Restorative Justice can be integrated into the juvenile criminal justice system in Indonesia in the future through strengthening regulations, increasing the capacity of law enforcement officials, community participation, and providing child rehabilitation programs. This integration will encourage the juvenile criminal law system in Indonesia to be more humane, fair, and in accordance with the principles of child rights protection. In addition, it also needs to be recommended for the improvement and strengthening of diversion in the future so that the implementation of diversion in the juvenile criminal justice system can be carried out

by amending Article 7 paragraph (2) of the Law on the Juvenile Criminal Justice System so that diversion does not only apply to cases of criminal threats under 7 years old, but also includes the category of subsidiarity or alternative criminal acts that can be sought to be resolved alternative (restorative model). Then also the development of LPKA/LPKS at the district/city level so that sentenced children remain close to the family environment to facilitate recovery assistance. Because in fact, for South Sumatra Province, LPKA only exists in the city of Palembang and LPKS only exists in Ogan Ilir district.

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