

Completion Of Diversion As A Form Of Child Through Criminal Investigators By Restorative Justice Approach In Police Office Of Indramayu

Saepudin¹ and Umar Ma'ruf²

Abstract. Children who commit in a criminal offense must be treated humanely in accordance with the best interests of the child means that children in conflict with the law should be restorative justice approach that should be pursued first. Indonesia already has rules to protect, prosper and fulfill the rights of children, among others Act No. 3 of 1997 on juvenile justice, Act No. 23 of 2002 on Child Protection. However, it seems not enough to bring significant changes to the fate of children in conflict with the law, and what to expect in reality often can not be implemented properly. Because outiusan judges are more punitive to the detriment of the child itself. Versioned as a form of juvenile criminal settlement through restorative justice approach needs to be taken into consideration in handling children. This concept involves all parties in order to repair the moral children so that children will no longer repeat his actions, so that children feel children aware of the law that affect the mental development of children.

Keywords: Children, Diversion, Restorative Justice.

1. Introduction

Kids have rights that are fundamental, as adults have. News concerning the rights of children are not same with adult rights or gender issues concerning women's rights. Protection of children's rights are not a lot of parties who think about and do concrete steps. Likewise, efforts to protect the rights of children crime that do by country, adults or even his own parents, not paying attention to the interests of the future child. Though children are soulmates, and a picture of the future, family asset, religion, race and country.

In various countries and various places in the country, children experienced improper treatment, such as the exploitation of children, violence against children, used as a means of satisfying sex, child labor, abandoned, becoming street children and victims of war / armed conflict.

Son is a potential for growth and development of a nation in the future, which has a special characteristic sifatdan. This peculiarity lies to attitude and his life in understanding the world, which should be in the face it. Therefore, children should be given special protection by the state. Law on child protection are all efforts jointly

¹ Student of Masters (S2) of Law Faculty of Law Unissula Semarang email saepudin.sh77@gmail.com

² Lecturer of Faculty of Law Unissula Semarang

made consciously by individuals, families, communities, government agencies, and private for security, procurement, and fulfillment of welfare spiritual and physical children aged 0-18 of, is not and has not been never married, according to the rights and interests in order to develop itself as optimally as possible.

Efforts legal protection for children can be interpreted as an attempt perlindungan laws against various freedoms and rights of children (fundamental rights and freedoms of children) as well as the various interests associated with the interests of the child. So the issue of legal protection for children include a very broad scope of the law of the child actually has a meaning that is not limited to the issue of juvenile justice, but broader than that. Act No. 11 Of 2012 regarding the juvenile justice system has helped give the interpretation, what-what are the legal department of children in Indonesia starting from civil rights of children in the field of care, guardianship and adoption, also set the issue of exploitation of children in economic, social, and sexual. Another issue that is set in the child protection law is how the punishment for adults who commit crimes on children and parental responsibilities, society and the state in protecting children. Thus the child the legal scope is broad and simple, only in the field of law violations committed by children.

This paper aims the information about the protection of children growing rapidly spread, so that violence against children can be minimized.³

Children mental who are still in the stage of the search for identity, sometimes easily influenced by the circumstances surrounding environment. So if the environment in which children are poor, it can be affected by the actions that may violate the law. That certainly can harm himself and society. Not a bit of the action is to drag them to deal with law enforcement officers.

Kids are part of society, they have the same rights as other people who should be protected and respected. Every country in the world where it is required to provide sufficient attention and protection of the rights of children, which among other civil rights, economic, social and cultural.

But it seems the position and rights of children when seen from a juridical perspective has not been seriously considered by the government, law enforcement and the community at large and still far from what actually should be given to them. This condition is also complicated by the lack of penerepan law regarding the rights of children by law enforcement officers themselves.

According to Act No. 11 of 2012, there are two alternative actions that can be taken when a child under the age of 8 of specific criminal acts, which were first handed over to their parents, guardians or foster parents, if the child can still be developed.

³ In the quotation from the book " *Undang-Undang Perlindungan Anak*"

Second, submitted to the Department Dosial if the child can not be nurtured by parents, guardians or foster parents.

Children who committed the crime together with adults or members of the national army of Indonesia (TNI) brought to court children, while adults or members of the national army of Indonesia (TNI) submitted to the competent court (article 24 of Act No. 11 of 2012).

In jurisdictions Police Indramayu criminal offenses committed by children tends to rise due to their sophisticated technology today for example many children who own handpone (HP), gaming applications, internet resulting in the child addiction, with economic deprivation families so that children can or think how to earn money, so many children who dared to commit unlawful acts. For that we need to do research on the treatment of children who commit the crime entitled, "Completion Of Diversion As A Form Of Child Through Criminal Investigators By Restorative Justice Approach In Police Office Of Indramayu".

2. Result And Discussion

2.1. Law Enforcement Theory

Law enforcement is a process for the enforcement or proper functioning of the norms significantly as a code of conduct in public life are related to legal, law enforcement is a problem faced by the people who. Words have connotations with law enforcement to uphold, implement the provisions in the community.

Law enforcement in reality peaked to its implementation by law enforcement officials themselves, as may be the author quotes in the Ishaq book, Soerjono Soekanto⁴ states that "Law enforcement is activity relationships that span the 'hierarchy of values in rules steady and manifest and the attitude of the translation circuit sebaagai follow the final stages of the value, to create, maintain, and sustain peace of social life"

In the implementation of law enforcement need for effort early in order to prevent premature prior to the occurrence of a criminal act, so that with the effort early through such preventive for instance by providing legal counseling, thus society will better understand, understand, appreciate and which moreover will create people who have a legal awareness.

2.2. Theory of Legal Certainty

According to the teachings of Utrecht legal certainty derived from the Juridical Dogmatic teachings based on the premise that a positivistic, who tend to see law as something autonomous, independent, because the adherents of this idea, the law is

⁴ <http://ilmuhukumuin-suka.blogspot.co.id/2015/11/teori-teori-penega...>

nothing more than a set of rules, which aim to get legal certainty.⁵ While the theory of legal certainty by Gustav Radbruch mentioned that there are four basic points of the meaning of the rule of law, namely: first, that the law is positive that legislation; secondly, the law is based on the fact or law specified; Third, the fact the fact should be clearly formulated so as to avoid errors in interpretation, as well as easy to implement; fourth, positive law not be easily changed.⁶

2.3. Legal Justice Theory

Many different theories put forward about fairness as some well-known experts such as Aristotle, Plato, John Rawls, Thomas Hobbes, Notonegoro and many experts argued about terori justice. This time the author will take a theory of justice proposed by John Rawls a philosopher who has a real name John Borden (Bordley) Rawls (American, 1921-2002)⁷ and known for his "A Theory of Justice" in it has two principles of justice according to Rawls, namely:

(1) Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a Similar of liberty for all.

(2a) of social and economic inequalities are to be arranged so that they are the greatest benefit of the least advantaged and (2b) are attached to offices and positions open to all under conditions of fair equality of opportunity.

If we translate the Indonesian discussed as follows:

(1) every person should have the same rights as the most extensive total system of basic freedoms equal compatible with equal freedom for all. (2a) of social and economic inequalities should be arranged so that they are the biggest advantages of the most advantaged and (2b) attached to offices and positions open to all under conditions of fair equality of opportunity.

Rawls thinking is in order to establish Justice as Fairness⁸ which was originally due to their social reality that happens inequality in liberal society, inequality was always present even in liberal societies.

Individual differences in society and individuals is determined by the natural order that was already owned from birth, good skin color, hair color, rich or poor that makes this inequality is always pervaded yourself a liberal society at that time.

However, Rawls sees inequality will disappear when the individual's own willingness to get his way through the competition, so that Rawls offers a concept called fair or Justice as Fairness meaning⁹ according to Rawls is justice wise on every individual in

⁵ <https://www.scribd.com>

⁶ Novianta.blogspot.com

⁷ Budiono Kusumohamidjojo *Dilema Antara Hukum Dan Kekuasaan* Jakarta Yrama Widya (2016) p.286

⁸ <https://suarakebebasan.org/id/opini/item/399-john-rawls-dan-konsep-keadilan>

⁹ *Ibid.*

the original condition of man when he was in the beginning of the same line in a competition.

3. Closing

3.1. Conclusion

Kids have rights that are fundamental as people of adult possess, the information concerning the rights of children are not as extensive as the rights of an adult or the gender issues related to women's rights. Protection of children's rights are not a lot of parties who think about and do concrete steps. Likewise, efforts to protect children's rights are violated by the State, adults, or even parents endiri, not paying attention to the interests of the future child even though a soul mate, picture and mirror the future, the family assets, religion, nation and state.

3.2. Suggestion

With the existence of laws protecting children, children in conflict with criminal law, shows the awareness and remorse for the violations that have been carried out, showing manners and morals is getting better, successful program development activities with diligence and zeal, well-behaved for a sentence and never get disciplined, community and environment can receive child development activities undertaken in question and will behave better.

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