



Implementation of the Policy on Child Criminals with a Restorative Justice Approach as a Protection form on the Rights of the Child

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Abstract

Criminal children are crimes committed by minors according to the regulations of the law. Behavior perpetrated by the child and is categorized as a crime the dilator is backfaced by many factor, both internal and factor external. This is why children in general are also categorized as victims of certain elements. It is most likely that a child commits a criminal and then encourages the state to create an instrument of law that regulates the matter. The laws of the child's justice system appear as a guide in dealing with and dealing with children who commit criminal ACTS. It not only governs its judicial system but also notices the kinds of rights that cannot be removed from the child. Presented as an ideal state to preserve the right of a child to be able to live well. Presented as the child's psychological and social order. Implementation of a restorative justice approach is expected to be a solution for children involved in criminal crimes. This is hereby defined as considering that criminal law is the last passage used to settle a problem by any other word criminal law is ultimum remidium so that when there are other alternative roads that are better.

Keywords: *Criminal Child; Diversion; Restorative Justice*

Introduction

The use of criminal law as a means of addressing crime includes the abuse of narcotics, is under intense light and is a long line of conceptual debate. While the factual debate continues to give rise to controversy over the use of criminal law as a means of addressing crime. The view that use of criminal law as a means of addressing crime cannot be categorized with its use still have to be subsider. This means that as long as the use of tools outside the criminal justice system is viewed as more effective, criminal justice is avoided whenever possible (Prasetyo and NPM, 2017).

Furthermore, if criminal (law) will be used as a means to reach all indonesians, then a humanistic approach should be taken into consideration. This is important not only because the crime is essentially a

human matter, but also because the fundamental nature of the criminal law itself contains an element of suffering that can attack the most valuable interest or value of human life.¹ Therefore the use of criminal law as a fighting tool cannot be tolerated, even its use must be integrated with instruments outside the criminal justice system.

Conceptually, fighting can be done both by using criminal justice (yusticial) and by other means outside criminal justice (non yustishit). Diverting the process from the process of yustibad to the non yustization of child abuse of narcotics, is basically an attempt to solve the child's abuse of narcotics out of the criminal way. That is, the transition from the process of yustibad to the non-yustian process of child abuse abuse, is basically an effort to prevent the child from implementing criminal law and insubordination.

The actual versions also had a purpose for the child to be spared and the negative effects of criminal application. The versions also have an essence that keeps children growing and developing both physically and mentally. Theoretically based on the concept of the goal of idling, a shift of process and process from yustian to a non-justic process against children who abuse narcotics would show relevance. Generally the purpose of rehabilitation consists primarily in part to protect communities on one side and protect individuals (doers) on the other (Arief 1994). The relevance of the distraction of process and process yustifuck leads to the non-yustishit process in the fight against child abuse of narcotics on the subject of the two points of idling purpose, which are aspects of community protection and individual protection:

- a. With that distraction, the child will be spared and the application of a criminal law that in many theories has been sterilized as one of the factors of the criminogen. The negative effect of application of criminal law, including to children, leads to stigmatization as well as dehumanization that can be a crime factor. Thus, keeping children away from and the application of criminal laws (dependency) can actually prevent the existence of a criminal factor, which means also avoiding children and the possibility of returning evil (criminals), thereby thereby avoiding society and the possibility of being a victim of crime
- b. With the diversion, will also provide two benefits at once to individual children. First, with the distraction the child will remain able to communicate with the environment, so that the child will no longer have to make a social readance after the crime has occurred. Second, the misdirection of the transfer also protects children from the possible negative effects of prisonization that is often a means of the transfer of crime.

The transition from the process of yustization to the process of non yustization is also relevant in the popularly adopted philosophy of fossilization. Thus, the transfer of processes from yusticial to non-yusticial processes also has the relevance of conceptual transformations in the criminal system and of idling retribution occurring in the world in general and a conception of retribution toward the reform conception (Asshiddiqie 1996a).

Child protection as an attempt to protect the child so that the child can perform his rights and obligations in a balanced and humane way. The realization is of coaching, mentoring, mentoring, inclusion, supervision, prevention, educational collateral setting that educates the metaphorical aspects, physical and social integrity of children. Children are immature and mature because of certain mental, physical and social rules (immature)(Gosita 1989).

Through efforts to translate into the child's deviant or criminal behavior may be a better solution, without neglecting the interests and welfare of the child, and appropriate action can be performed according to the needs and interests of the child. These diversionary policies are the best that can be a formula for the solution of several cases involving children as criminal offenders, especially in the

treatment of child abusers. So it would be more appropriate in determining the actions that need to be applied to them.

Through the above description, the authors are interested in further diversion applications of child criminals using a restorative justice approach.

Formulation of the Problem

- 1) What about immunity to child rights in Indonesia?
- 2) What's the purpose of having a dean dean dean in regards to a restorative justice approach?

Research Methods

The method used in conducting the question discussed in the study was normation legal research method. As for the measures used for research on this normative law method, by analyzing the literature in the cultural literature of the law in the tangible forms of primary, secondary and tertiary law sources. In this assessment the subject is: (a) principles of law; (b) systemic law; (c) level of law synchronization; (d) comparisons of law; (e) history of law. The study will further discuss the implementation of the policy of version on child criminals with restorative justice deductions as a form of protection on child rights.

Result and Discussion

1. Human Rights on the Child

Human rights or human rights as they are known as human rights are not a gift of any particular state or organization, but human rights have been held by humans since the womb. These rights are valid for life, unchallenged by anyone. These rights contain of similarities or harmony without distinctions of race, class, lineage, rank, race, skin color, age. Rights themselves are fundamental. Human rights are fundamental and inherently rights to human identity universally. Whoever human and wherever is entitled has that right. It means that while validity exists in the existence of human beings, there is also a real obligation to be understood, understood, and responsible to care for it either individually or individually in a universal social group by the individual, the state and the international community (Eka Wisanjaya 2013). As for the basic principles of human rights:

- a. Universal and inalienability (universal & inalienability) human rights are inherent rights, and all mankind in the world has them. These rights cannot be submitted voluntarily or revoked. This harmonizes with the statement found in chapter 1 of the universal declaration of human rights "every human being is born free and equal in its dignity and dignity."
- b. Equal and without discrimination (equality & non-discrimination) each individual equal as a human and has inherent goodness in each one's dignity and dignity. Every human being is entitled to his rights without any distinction for any reason, as is based on race, skin color, gender, language, religion, political and other views, nationality, social background, defects and deficiencies, welfare levels, birth or status as explained by the human rights administration.

Indonesia asa member of the United Nations (United Nations) has ratified the convention on the rights of the child in August 1990, according to the decision of the no.36 in 1990 decision of August 25, 1990. Under article 49 of this verse (2), the convention on the rights of the child has been declared in force in Indonesia since October 5, 1990. The Indonesian government, therefore, should be obliged to do its utmost to fulfill the rights of children and when it is necessary to hold bilateral or multilateral cooperation as stated by the convention. In reality, though, the child's condition in Indonesia is still

deplorable and is a victim of violence, evasion, discrimination, even inhumane ACTS against children, without it being able to protect itself, and without adequate protection from family, society and government.

Therefore, the indulgence and protection on the side of the child and the upright stand of nondiscriminatory principles, the best interests of the child and the participation of the child in any matter where it involves itself are absolute prerequisites to effective child protection efforts. The convention on the rights of the child is one of the international instruments of human rights that specifically govern everything about the rights of the child. The convention was adopted (approved) by the United Nations general assembly (UN) in a resolution 44/25 dated November 20, 1989 (human rights fact sheet, 2000:121) and under article 49 verse (1), went into force 4 on September 2, 1990.

In less than a year, by September 1990 there were 20 countries that had legitimately signed and adopted the convention, at least until December 1996, and 187 states were registered. The convention on the rights of the child is a result of compromise by various legal systems and nationalistic philosophy. Compromise is made because countries have different traditions and cultures regarding children. Nevertheless, the convention persists in upholding basic human rights and standards. The child in this convention is a holder of basic rights and freedom as a person who receives special protection (Nizarli 2007).

This principle of non-discrimination on children asserts that the rights of children included in the convention should apply to any child without regard for any difference. Article 2 verse (1) states parties states: "parties parties will honor and ensure the rights set out in the convention against every child within their jurisdiction without discrimination of any kind, regardless of race, color, gender, language, religion, political views, national, national or social origin, wealth, disability, birth, or other status of a child or child's parent or legal guardian." Chapter 2 verse (2) states: "participants will take steps that we need to ensure that the child is protected from all forms of discrimination or punishment based on status, activity, opinion expressed or the confidence of the child's parent, legal guardian, or third member."

Chapter 3 verse (1) states: "in all measures involving children performed by public and private welfare institutions, judicial institutions, government agencies or lawmakers, the best interest of the child must be the primary consideration." Other chapters related to that principle are: chapter 9 verse (1) and verse (3) on the separating of the child from the parent; Chapter 18 concerning the responsibilities of the parents of chapter 20 of the child who loses his family environment, both regularly and temporarily; Chapter 21 regarding adoption; Chapter 37 (c) regarding the restriction on freedom; Article 40 (2) (b) (iii) regarding bail against a child accused of breaking a criminal law.

The committee on the rights of the child sees the survival and development of the child is a holistic concept, for its great content departs from the development and survival of children article 6 verse (1) states: "the countries in the participant right to life acknowledge that every child has a right to life. In the meantime, the text (2) states that the strongest possible participants will ensure survival and development of the child. With regard to the principle of child development, it is important to note: physical development (chapter 27 paragraph 3, chapter 26); Mental development, especially concerning education (chapters 28, and 29), including education for disabled children (chapter 23); Moral and moral development (chapter 14); Social development, primarily concerned with the right to information, to express opinions, and to unite (chapters 12, 13, 17); Cultural development (chapters 30 and 31)

2. The Juvenile Justice System Act

The juvenile justice system (sppa) is a translation of the term the juvenile justice system, which is a term used in conjunction with a number of judicial institutions, including police, public prosecutors and legal counsel, the supervision agencies, child arrest centers, and juvenile detention facilities. In the

word "criminal justice system of the child," there is the term "criminal justice system" and the term "child". The word "child" in the phrase "criminal justice system of the child" must be included, for it distinguishes the adult criminal justice system.

When referring to the previous 1997 article of the child court law no. 3, the child would either be a delinquent, a criminal, or a child who commits an offense to a child. The definition presents a theoretical problem of integrating criminal activity with forbidden action, resulting in a different interpretation. The problem of the definition is clearly problematic, so it is corrected in the 2012 law no. 11 on the criminal justice system of children, that what is meant by children in the criminal justice system of children is a child that conflicts with law. So under statute no. 11 of 2012 the child criminal justice system referred to the criminal justice system of the child is the whole child legal settlement process, from the inquiry stage to the guiding stage after criminal behavior.

Chapter iii of the child protection act entitled the right and obligation of the child, detailed from chapter 4 to chapter 18 on the rights of the child and chapter 19 describes the child's duties. According to this statute, every child:

- a. The right to live, to grow, to thrive, to participate reasonably according to dignity and human dignity, and to have protection from violence and discrimination;
- b. Entitled to a name as self - identification and citizenship;
- c. The right to worship his religion, think, and express according to his or her level of intelligence and age, in the direction of parents;
- d. The right to know their parents, to be raised and cared for by their own parents;
- e. The right to be reared or adopted by another person according to the established regulations of the law, if for some reason the parent cannot guarantee that a child grows, or is abandoned, the child;
- f. The right to health and social services according to physical, mental, spiritual, and social need;
- g. Entitled to education and instruction in terms of personal development and intelligence according to his interests and talents;
- h. The right to an extraordinary education, in addition to education and instruction for children in general, for children with disabilities; Whereas those who have excellence also deserve special education
- i. Has the right to express and hear his opinion, to accept, to seek, and to impart information according to the level of intelligence and age for his development, according to the values of decency and decency;
- j. The right to rest and take advantage of free time, to associate with children of your own age, play, enjoy yourself, and create according to his or her interests, talents, and intellectual levels for personal development;
- k. Those who have disabilities have the right to receive rehabilitation, social assistance, and social welfare maintenance;
- l. While in the upbringing of a parent, guardian, or any other person who is responsible for parenting, is entitled to protection from treatment:
 - 1) Discrimination;
 - 2) Exploitation, both economic and sexual;
 - 3) Desolation;
 - 4) Cruelty, violence, and persecution;
 - 5) Injustice;
 - 6) Other mistreatment;
- m. The right to be nurtured by one's own parents, unless there is a valid reason and/or rule of law indicates that the separation is in the best interests of the child and is a final consideration;
- n. Entitled to protection from:

- 1) Abuse in political activities;
- 2) Involvement in armed dispute;
- 3) Exposure to social unrest;
- 4) Involvement in violent events;e) involvement in warfare;
- o. The right to protection from the object of abuse, torture, or inhumane punishment;
- p. The right to freedom according to the law;
- q. Arrests, arrests, or criminal ACTS of juvenile detention are only committed when in accordance with the law and can be made only as a last resort;
- r. Any child deprived of freedom is entitled to: humane treatment and segregation
- s. The right to stand up and get justice in front of the court an objective and impartial child in the congregation is closed to the public;
- t. Any child or perpetrator of sexual abuse or exposure to the law has a right to secrecy;
- u. Any child who is a victim or who commits a crime is entitled to legal assistance and other assistance.

From the foregoing, it may be known that the rights and obligations of the child in the child protection act relate to the perspective that this law USES in seeing a child's position, that is, as part of an Indonesian citizen, as a god of god, and as a future generation of the nation. Therefore, the rights of the child also extend a wide range of scope, both those of the child associated with his citizenship, as a duty of god to which he is attached to dignity and dignity as a whole person, and as a successor to the ideals of the nation. These rights also involve a variety of aspects of life: education, health, religion, law, politics, social, and culture. So is the duty of a child, not only in relation to parents and family, but also to friends, teachers, guardians, communities, homeland, nation, and state.

In the above description as such, as has been tolerated by the child protection of both the victim and the person who is declared a child has the right to anti-discrimination treatment and equal positions in the state of the law, the arrest and detention of the child molester committed under the principle of the final resort or the ultimum remidium which in the case of the even worse building of the child.

3. The Concept of Criminal Penalties on Children Involved in Criminal ACTS

The main concept of the giving of criminal punishment remains the course of the end (ultimum remidium) in other words that the best course of criminal penalties is otherwise valid. It also applies to the practice of child criminal justice systems aimed at treating crimes against children of criminal criminals in Indonesia frequently to experience problems, including those in child custody, a lengthy judicial process starting with investigations, prosecution, justice, which ultimately puts the child convict in a correctional institution that causes trauma and negative implications for the child. The completion of the child-criminal problem of overcoming the non-penal line has more positive effects than using the penal line. Nevertheless, the implementation of criminal proceedings involving children as criminals continues to look at the aspect of justice for both the victim and the perpetrator himself and thus does not create a disparity in the justice received by the criminal victim.

Children who engage in lawlessness or criminal ACTS are strongly influenced by other factors outside the child, such as association, education, playmate and so forth, since criminal ACTS perpetrated by children in general are either a process of copying or being affected by negative actions by adults or those around them. When the child is convicted of a criminal offense, the existing formal justice system ultimately places the child in the custody status of the inmate certainly brings considerable consequences when it comes to child development. The punishment process given to children through a formal criminal justice system by putting them in prison proved unsuccessful in raising a child and becoming a better person to support the growing process of development. Prison is often more conducive to child crime.

To do child protection from the influence of the formal process of the criminal justice system, it arises human thought or lawyers and humanists to create a formal action to remove (remove) a child who commits a legal or criminal action from the criminal proceedings by providing other supposed better alternatives to the child.

Children as perpetrators of criminal ACTS no. 11 in 2012 of the child criminal justice system (sppa) changes to the 1997 penal code on child court called a child in conflict with the law and then called a child are 12 years old (twelve), but not 18 (eighteen) years suspected of criminal ACTS (hidaya 2019). Every child criminal committed to the criminal justice system should be treated humanly as established under statute no. 35 of 2014 changes to act no. 23 of 2002 on child protection, nondiscrimination, the best interest for the child, the right to life, life and development, and the appreciation for the child's opinion.

Under the terms of child abuse, the rule no. 11 years 2012 of the child's criminal justice system is known for reversion. The version is a transfer to the child settlement from criminal justice to an outside criminal justice process. Forced entry at the level of inquiry, prosecution, and child custody in the state court. In the first half of 2008, the number of tax receipts in the first half of 2007 rose to rp38.4 trillion from the same period a year earlier.

4.Executing Diversions in the Criminal Justice System of Child Crimes

Understanding published in the academic draft of the child criminal justice system, translated is a distraction for the completion of child cases that are suspected of committing certain criminal proceedings from formal criminal processes to peace between suspects/defendants/offenders and victims facilitated by families and/or communities, child welfare advisers, police, prosecutors or judges. In addition to article 1 verse (7) 2012 law no. 11 on the child criminal justice system, the reversion is the transfer of child justice from criminal justice to a process outside criminal justice. It is a policy to keep criminals out of formal criminal justice systems and provide protection and rehabilitation to criminals in an effort to prevent children from becoming adults.

The birth version with the intention of providing protection for the rights of the child. The versions appear in order to seek to avoid the evil stigma on children. With the release of law enforcement in both the police force and the court granted the authority to divert the judicial process out of the existing formal judicial process. Criminal enforcement is not considered the best solution to solving criminal ACTS perpetrated by children. It conforms to the purpose of the criminal court itself to materialize a criminal justice which absolutely guarantees the best interest of children. It is an important version of solving crimes involving children, since the protection given to the rights of law-abiding children can be more secure and can prevent children from being negatively stigmatically "bad boys" because criminal offenses involve child abuse can be handled without any need through formal legal proceedings.

Under article 8 of the 2012 article no. 11 of the law on child criminal justice, a process is negotiated through deliberate deliberation involving children and parents, victims and/or parents/guardians, public advisers, and professional social workers based on a restorative justice approach. Article 1 paragraph 2012 of the child criminal justice system, restoration justice is the completion of criminal proceedings by involving the perpetrator, the victim, the family of the perpetrator, and the others involved in jointly seeking a fair settlement by emphasizing restoration to the original state, and not retaliation. While the implementation of the version is deliberate on the basis of the restorative justice approach, it does not present a clear picture of action to law enforcement in every hearing and relevant parties still need to work together to find a fair solution by emphasizing the restoration to the original state, and not to retaliate, As featured in article 1 of the 2012 act no. 11 on the criminal justice system of children. And so it would require an appropriate action based on restorative justice for the completion of a criminal act perpetrated by a child.

One of the measures the authors are able to implement a version of cooperation under mediation. The mediation was a process to settle disputes with the involvement of the third party as neutral and partial. Mediation is one of the settling of the issues settled in the 1999 provision of arbitration and the alternative to settled disputes, it is generally a question settled in the field of concern. The policy presents more forms of settling the issue than mediation, including consultation, negotiation, conciliation, dispute or expert assessment.

According to the authors, mediation could be applied to the implementation of the version because the process of mediation in principle solved the problem based on the agreements of the parties as a result of the end of the mediation process and the involvement of the third party as helping and pursuing the decision process became better than other alternative forms. While mediation is an alternative to settling disputes in the field of virginity, in principle mediation has the proper characteristic to apply in the process of solving crimes done by children for the adoption of a child's criminal system (Ananda 2018).

5. Child Protection Act

The child protection act sees children in various perspectives. This is seen in the "weighing" consideration of the bill, which sees the child's position as: (Sholihah 2018)

- a. A part of the citizens of the republic of Indonesia, whose rights to protection get its rights;
- b. The praise and bounty of the almighty Lord, in whom he is inherent in dignity and dignity as a whole man;
- c. Growth, potential, and rising generation of the nation's fight ideals, which have strategic roles and have special characteristics and characteristics that ensure the continued existence of nations and countries in the future. Furthermore, this law defines a child with someone not yet 18 (eighteen), including one still in the womb.

The child meaning referred to under this law is thus one as an individual society, not yet of age. So the understanding of the child here is not that of the child in the family relationship, that of the one born as a result of the marriage. In this law, children are seen in a general social perspective, so it is an individual living in a public area

6. The Restorative Justice Approach on the Implementation of a Diversion in the Criminal Justice System of Child Crimes

The term "restorative justice" was said to have been first created by Albert Eglash, Randy Barnett, and Nils Christie in 1977. Eglash, Barnett, and Christie were among the first to speak of a crisis occurring in the criminal justice system, and of alternative remedies, which could fundamentally replace the paradigm of punishment. Specifically, Eglash distinguishes three types of criminal justice, which is retribution, distribution, and restoration. He said that retribution and distribution focused on criminal acts, denouncing the participation of victims in judicial proceedings, and only requiring passive participation of a perpetrator. As for the restoration, the system focuses on the recovery of any damage or damage caused by the perpetrator, and all parties of both the perpetrator and the victim are actively involved in the judicial process.

In order to understand how this restorative justice is in theoretical and practical terms, it is necessary to consider what Tony Marshall wrote in 1999 in one of his most oft-quoted works has to do with its restorative justice definition. It said that restorative justice is a process by which all concerned parties in certain breaches gather to settle collectively how to tackle the consequences of the breach created and its implications in the future.

Children who commit felonies are constantly on the rise, in certain cases, children who commit crimes are of particular concern to law enforcement officials. One of the solutions that can be found in treating child crime is a restorative justice approach, which is carried out by distraction (diversion). It is used to provide protection and rehabilitation to criminals in an effort to prevent children from becoming adults. The dissection of children who commit crimes is carried out by all three components of the criminal justice system in Indonesia from the police, the prosecutors to the courts.(Ananda 2018).

In practice, performing restorative justice can refer to one of the following four programs:(Hamdani, n.d.)

- a. Mediation of the victims;
- b. Family group conference;
- c. Healing circle and punishment; and
- d. Community recovery council.

First, the mediation of the victims is one of the most famous and widely used contemporary restoration programs. In its distinctive form, he unifies the principal victim and the perpetrator USES a mediator. When both sides had presented their opinion, the mediator helped them consider ways to improve things. The mediation of the victims can take many forms, depending on the structure of the criminal justice system in which they are introduced, the level of tolerance in the community, the cultural background and history of the country.

Second, the family group conference, the program differs from the mediation of the victims because it involves more parties in the process. Specifically, not only are the primary victims and perpetrators included but also secondary victims, family and close friends, community representatives or police authorities.

Third, the circle of healing and punishment or so-called attempts to create peace. The program is similar to the family group conference, as it also expands participation outside the primary victim and perpetrator. However, in this case any member of the community interested in the case may participate, such as the victims, the perpetrators, his family and friends, the judge and judicial personnel, the prosecutor, legal counsel, and the police.

Fourth, the community restoration council, this restoration program is a typical example of society members who are substantially involved in judicial proceedings. The community of the restoration council is a small group of active citizens, specifically trained to meet publicly with offenders' convicted 'by the court to participate. The purpose of each council is to provide opportunities for the victim and the public to face the perpetrators constructively, while giving the perpetrators the opportunity to take personal responsibility.

In the international world, restorative justice practices can be seen through the creation of several state policies, for example (Prevention 2007) :

a. New Zealand

In the mid-1980's introduced the children and youth bill. In the bill, at the settlement of the problem is directed to consider the involvement of parents and family groups in developing solutions to the problems of youth. Then in 1989 the bill was modified substantially by proposing a family group conference to deal with child care and youth crime.

b. Canada

After the 1997 restaurant justice association by the Canadian criminal justice association and the international centre for reform of criminal law and criminal justice policies, a working group was formed

of senior officials of the federal, provincial and territorial government. The goal is to collaborate in describing the policy for restorative justice. Then in 1996, the federal, provincial, and territorial ministers responsible for the justice power authorized a report written to combat the growth of the prison population at the time, in which one of its recommendations was to increase the use of restorative justice. As a result in October 1999, the Canadian government committed to launch a restorative justice program to help victims cope with the trauma of crime and to give nonviolent perpetrators the opportunity to help correct the damage or damage caused by their actions.

c. Australia

The legal approach to restorative justice began in 1993 in south Australia with the 1993 youth restriction act. According to Heather Strang, the restoration program in Australia and particularly the family group conference is based largely on the conference model developed in New Zealand. As a result of 1998, there were some 1,450 justice restorative programs held in south Australia. Since then, all other Australian jurisdictions, except Victoria, have introduced legislation that accommodated restorative justice.

Through this process of restorative justice, it allows the victim to take control of what has happened to them. Furthermore, even when a restorative meeting may fail to achieve its transformative purpose, meaningful apologies and regrets on behalf of the perpetrator can have a significant impact on the victim and their family. Restorative practice is based on principles of inclusion, respect, mutual understanding and voluntary and honest dialogue. One might argue that these are the core values, which if rooted in society, can make such evils against race, race, and religion almost impossible. Therefore, identifying people with fear and their biases can help to dispel the myths and stereotypes that underlie hateful attitudes. It also enables the perpetrator to see the victim as a human, to change the thought and hate that had been so ingrained that the crime was not repeated (Setyaningrum and Ma'ruf 2017).

The view that use of criminal law as a means of addressing crime cannot be categorized with its use still have to be subsider. This means that as long as the use of tools outside the criminal justice system is viewed as more effective, criminal justice is avoided whenever possible. Furthermore, if criminal (law) will be used as a means to reach all Indonesians, then a humanistic approach should be taken into consideration. It is important not only because the crime is essentially a human matter, but also because the fundamental nature of the criminal law itself contains an element of suffering that can attack the most valuable interest or value of human life.⁸ Therefore the use of criminal law as a fighting tool cannot be tolerated, even its use must be integrated with instruments outside the criminal justice system (E. T. dan Y. Prasetyo 2021).

As John Braithwaite wrote that says: (Braithwaite 2017) *“the most important way that the criminal justice system must be constrained against being a source of dominant over the lives of citizens is that it must be constrained against ever imposing a punishment beyond the maximum allowed by law for that kind of offense. it is therefore critical that restorative justice never be allowed to undermine this constraint. RJ processes must be prohibited from ever imposing punishment that exceed the maximum punishment the courts would impose for that offense, The Fundamental standard is that restorative justice processes must seek to avoid domination. We do see a lot of domination in restorative justice processes as we do in all spheres of social interaction”*

Conceptually, the fighting can be done both by using criminal justice (yustisial) and by other means outside criminal justice (non yustisial). An attempt to divert the process from yustisial to a non yustisial process in the fight against narcotics abuse by children, is basically an attempt to solve the abuse of narcotics by children out of the criminal justice line. That is, the transition from the process of yustisial to the non-yustisial process of child abuse, is basically an effort to prevent the child from implementing criminal law and insubordination.

The actual versions also had a purpose for the child to be spared and the negative effects of criminal application. The versions also have an essence that keeps children growing and developing both physically and mentally. Theoretically based on the concept of the goal of idling, a shift of process and process from yustian to a non-justian to child abuse of narcotics would show its relevance as follows:

- a. Generally the purpose of rehabilitation consists primarily in part to protect communities on one side and protect individuals (doers) on the other. The relevance of the transition between process and process:
 - 1) With that distraction, the child will be spared and the application of a criminal law that in many theories has been sterilized as one of the factors of the criminogen. The negative effect of application of criminal law, including to children, leads to stigmatization as well as dehumanization that can be a crime factor. Thus, keeping children away from and the application of criminal laws (dependency) can actually prevent the existence of a criminal factor, which means also avoiding children and the possibility of returning evil (criminals), thereby thereby avoiding society and the possibility of being a victim of crime.
 - 2) With the diversion, will also provide two benefits at once to individual children. First, with the distraction the child will remain able to communicate with the environment, so that the child will no longer have to make a social readance after the crime has occurred. Second, the misdirection of the transfer also protects children from the possible negative effects of prisonization that is often a means of the transfer of crime.
- b. In progress, criminal law also needs to observe crime victims. Criminal law orientation that is solely prone to criminal and criminal ACTS (daad-dader strafrecht) has led to criminal law construction that is no respect for victims. Though in the context, a child as a person committing a criminal can not only be seen as a perpetrator but also be viewed as a victim.
- c. The transition from the process of yustization to the process of non yustization is also relevant in the popularly adopted philosophy of fossilization. Thus, the transfer of processes from yusticial to non-yusticial processes also has the relevance of conceptual transformations in the criminal system and of idling retribution occurring in the world in general and a conception of retribution toward the reform conception (Asshiddiqie 1996).

Conclusion

The alternative resolution of a dispute or in a foreign language known as alternative resolution that is a mediation for a version in the child's criminal justice system does not conflict and corresponds to what is mandated in the 2012 statute no. 11 of the child's criminal system. While the alternatives to settling issues are known for the silver scope, law enforcement of these are sometimes and often used in criminal settlement. According to the authors' research conducted at various locations, action and methods taken at every level of examination for translation efforts were taken in deliberate deliberations attended by the relevant parties. The continued deliberations are under way through mediation approach, and in the process negotiations are concluded together as an indicator of the success of efforts made.

Non-version application of child crimes using a restorative justice approach allows children to be spared even greater negative impact. This is done by taking into account the psychological and social impact that his sons will receive. Child giving in to criminal children gives children the opportunity to keep growing better flowers. It also considers all forms of regulation regarding the legal system of the child so that the implementation of a restorative justice approach does not in itself eliminate the crimes committed by the child. It also considers that criminal laws include an ultimatum remidium which is ate as the latter so that when there are other alternative paths outside the court it would be good to do so.

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