



The Role of the Village Government in Providing Legal Protection to Children of Criminals

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Abstract

Every child has protection from the state when involved in legal problems, even though the procedure in law enforcement is the same for adult criminals. Based on international conventions and the 1945 Constitution of the Republic of Indonesia, it has been explained that every child has the right to avoid violence and degrading actions. The SPPA Law regarding juvenile justice for criminal acts has regulated diversion efforts and continues to provide criteria that must be met by child offenders. The purpose of diversion is to secure and rehabilitate perpetrators and help stop juvenile offenders from committing crimes again. States must ensure that children who commit crimes can benefit from diversion according to the main justification offered by UNICEF.

Keywords: *Village Government; Children; Criminal*

Introduction

Diversion as a means of legal defense against violations of children's human rights, freedoms, and interests for the welfare of children, can be given legal protection for child perpetrators. Legal protection is very broad in covering children (Bestari & Sugiharto, 2018).

Through the diversion process, namely moving children's cases from the juvenile justice system out of the criminal system, it is also not easy to give diversion to children in conflict with the law, only those that are included in the criteria for seeking diversion (Rasdi, 2022).

Children are the nation's next generation, potential human resources, and the continuation of the country's ideals, so they need special guidance and protection. Legal protection is separated into philosophical protection and follows this line of thought. They also play a strategic role and have unique characteristics, special protection in addition to legal protection for all children's interests related to the

welfare, protection of children's rights and freedoms. In addition, they have distinctive characteristics and play a strategic role.

In essence, if the child's parents are able to supervise and provide quality education for a child's child, it cannot be used as an excuse or error. There are several reasons why children commit crimes (Mulyana, 2022). These factors are both internal and external factors of the perpetrator's child originating from the influence of his environment (Utari & ICahyaningtyas, 2022). For example, murder is a criminal act in which the perpetrator must be punished for violating the right to life of others, but if the perpetrator is a child, a separate policy is needed that can regulate the acceptance of criminal sanctions against the child because the child does not have emotional stability and the child is something that law enforcement officers need to pay attention to when make decisions.

The policy that has been applied for the trial process in the juvenile criminal justice system is a closed trial where the defendants are children, during the trial the judges wear ordinary clothes so that children are not afraid to go to court to be tried criminal (Rohmad & Rochaeti, 2022). This is a legal approach to dealing with child offenders. One method to provide legal protection to child offenders is through legal representation (Heriyanto & Hermansyah, 2022). The provision of legal representation for children who commit crimes must be taken seriously, as children may be reluctant to speak in court out of fear. With a legal representative, the child can be approached to provide information about the child's deviant actions.

The government has a big obligation to provide legal protection and assistance to child offenders, considering that children are the nation's assets (Budiasuti & Hermoyo, 2022). So both the central government and the village government have a big obligation to find out how to resolve criminal cases with children as perpetrators using the diversion mechanism.

Research Methods

The normative juridical method was used in the preparation of this research. The study of legal doctrine based on legal norms is known as a normative juridical approach. Normative juridical uses secondary sources that include legal theory and regulations, as well as dealing with the legal system, legal principles, legal history and comparative law (Michael, 2022). By evaluating or analyzing secondary facts, one can understand law as a set of constructive guidelines or standards within the legal system that governs all aspects of human existence. Examples of secondary data include basic norms, statutory requirements, and findings of scientific studies. Primary legal sources, secondary sources, and tertiary sources are examples of secondary data. Therefore, I hope to provide a detailed, clear, and systematic explanation of how the diversion mechanism protects child offenders (Michael, 2022).

Formulation of the Problem

How is the legal protection for child offenders through the diversion mechanism?

Discussion

Legal Protection of Children Through Diversion Mechanism

Children have the right to protection from the state not only when they are victims or witnesses of crimes, but also when they are involved in legal disputes or are committing crimes (Sari, Sahari & Fauzi, 2012). Although the enforcement procedures are the same as those used to deal with adult criminals, child offenders are very vulnerable to law enforcement that is far from fair. When a child commits a

crime, he or she does so with a very different mindset and psychological makeup from adults because children are undoubtedly very different from adults in terms of mindset, psychology, and body shape.

In the international convention that regulates children's rights, the 1945 Constitution of the Republic of Indonesia, every child has the right to be protected from all forms of violence and behavior that can reduce their dignity, as stated explicitly in the Child Protection Act. In addition, there is the principle of the best interests of children which must be prioritized by the state, government and law enforcement officials in making policies or in deciding something related to children. Based on this, the punishment for child offenders cannot be equated with the concept of punishment for adults (Michael, 2020).

If children receive the same punishment as adults when they are perpetrators of a crime, that would be very unfair. If enforcement procedures are not carried out properly, these actions have the potential to rob children of their independence and stigmatize them which will result in prevention. On the other hand, treating children the same as adults results in punishment of children without regard to a sense of justice. If this continues, it will clearly be a nightmare for the country because the younger generation who is intended to be the successor of the state will be trapped in an inappropriate criminal system.

The SPPA Law still limits the conditions that must be met by children who commit crimes to participate in the diversion process. This law regulates in an effort to protect children in conflict with the law (Hambali, 2019). The juvenile criminal justice system is regulated in Law Number 11 of 2012, which is often known as the SPPA Law which is a significant effort to protect children who commit crimes (Suwandewi & Adiyaryani, 2020). In essence, safeguards against child criminals are directly related to diversion adoption efforts. Diversion is used to secure and rehabilitate young criminals from committing the same or even more serious offenses (Galaguzova et al, 2019). Diversion can help stop juvenile offenders from committing crimes again or turning into criminals as adults.

States should ensure that child offenders benefit from diversion programs and reduce the number of minor and moderate offenses so that the formal justice and detention system can concentrate more on recidivist or repeat offences. This is the main justification offered by UNICEF for applying the priority of the diversion principle. In addition, diversion tries to protect children from the adverse developmental effects of imprisonment and formal procedures that reduce the likelihood of stigmatizing or labeling them and their families.

Given that prisons often have a negative impact on children's future development, diversion is important as a strategy to prevent children from receiving punishment. It is very likely that the judge will punish this guilty child in a way that denies him his freedom. In addition, the situation is very concerning, namely, the scarcity of juvenile prisons and detention facilities resulting in a situation where children are accommodated with adult inmates (Hockenberry & Puzanchera, 2013).

Diversion plays an important role in the rehabilitation of juvenile offenders. This stage allows treatment of the child while still providing proper care and rehabilitation without having to be formally labeled. The idea of diversion is implemented to protect young lawbreakers from the detrimental effects of the practice of administering juvenile justice. Community service is one strategy for handling juvenile delinquency and diverting it from the traditional juvenile justice system.

To avoid future delinquency, diversion can keep young people who have committed misdemeanors from punishment and toward community-based care. Juvenile delinquency may increase as a result of juvenile punishment due to possible "labeling" or stigmatization as well as exposure to prison conditions for juveniles. Family values are the basic principles that guide the implementation of diversion. As one type of diversion in case investigations that can stop or free him from the criminal justice system,

children are handed over to their parents or guardians, the community, or social services to obtain education.

The Role of the Village Government to Provide Legal Protection for Children of Criminals

Providing legal protection to child offenders is the state's obligation. Since 2012, Indonesia has been committed to using a diversion mechanism in the settlement of criminal cases involving children. To optimize this commitment, it has become the obligation of the central government as well as local governments including village governments to understand and provide a major role in providing legal protection to child offenders.

The future leaders for this nation are children, so children need legal protection in every aspect of their existence. Each child has the right to be considered and protected from all forms of violence and discrimination, to survive, grow and develop, and to participate equally and in harmony with their values and dignity. Various provisions regarding child safety have been stated in Law no. 35 of 2014 relating to the modification of Law no. 23 of 2002 which regulates Child Protection. The government as one of the parties has the responsibility to realize efforts to protect children's rights related to the rights of growth and development, and to participate maximally equal to the degree and position of humanity in terms of protecting children, especially children who commit criminal acts.

The need for solutions to emerging issues stems from the fact that many issues related to children continue to be hot topics of discussion. Children are often victims of violence, commit crimes, and the neglect of children's rights in various fields of life is one of the problems. To address these various types of challenges, several solutions are needed. KHA (Convention on the Rights of the Child) has been adopted by the Indonesian people and then incorporated into Law NO. 35 of 2014 regarding the revision of Law no. 23 of 2002/UU PA. The content of the CRC discusses the protection that has been guaranteed by the state for children's rights and enforces these rights.

According to the Child Protection Law Article 1 paragraphs 12 and 19, children's rights have human rights that deserve to be protected, defended, and cared for by both parents, family members, the surrounding community, the nation, and the local government. Mayors, Regents, and Governors are local governments. This briefly explains the duties of local authorities to fulfill, protect, and defend children's rights, because as they approach adulthood they will develop into family and community members who contribute to the country (Gasser & Cortesi, 2017). Article 20 of the Child Protection Law regulates the state, parents, family, central government, and local government and is obliged to provide legal protection for children, especially regarding children's rights (Lubis Ridwan Muhammad, 2021).

However, in practice children who commit crimes are rarely provided with adequate and comprehensive legal protection. Children who commit crimes are sometimes not always fairly punished by the legal system. On the other hand, it is quite evident from Law no. 11 of 2012 or the SPPA Law which is a minor who has committed a crime against him is given legal protection. In accordance with the provisions of Article 1 number 2 of Law no. 3 of 1997/Law on Juvenile Justice, namely a child who has committed a criminal offense is a child who commits a criminal offense and a child whose activities are determined as actions that cannot be carried out, regularly according to law, and other statutory regulations applicable in Indonesia. Indonesia (Falch-Eriksen & Backe-Hansen, 2022).

Children cannot be matched with adults, children must receive legal protection because children in committing crimes still do not know or cannot understand how to decide a problem correctly (Imam et al, 2022). Diversion is regulated in Law Number 11 of 2012, in that provision, children who are in conflict with the law will not be immediately subject to legal proceedings if they make a mistake (Kadir et al, 2018). Children in conflict are children who are suspected of committing crimes, children who are witnesses are children who see the events taking place. The sentencing process is different from that of adults (Bendavid et al, 2021). Through the knowledge of the village government regarding diversion as an

effort to provide legal protection for children who are perpetrators of crime, it is hoped that this awareness and knowledge can be passed on to the community, which will then form a group that will be given training on the diversion mechanism.

Children who commit crimes under the law are classified for settlement (Finkelhor et al, 2013). Children under the age of 12 cannot be touched by law at all, the process will be delegated to parents if the parents are unable to do so, it will be decided whether they are given to relatives or placed in social institutions. The child who is suspected of committing a crime is 12 years old but not 18 years old, later if the child enters the legal process aged 12 to 18 years, according to the law, the investigator is a child investigator. Likewise, the police, prosecutors, and judges are juvenile judges. Professional social workers who are involved to assist them in carrying out their roles and services for handling children's social problems. Children who have legal problems, including child offenders, must be accompanied by a trusted adult and legal counsel (Yanto et al, 2020). The assistant is tasked with assisting the child who is trusted by the child during the process of handling the problem. Lawyers are required by law, if they are economically unable to go to a legal aid institution to get the help of an advocate to assist children who have legal problems free of charge on condition that they request a certificate of incapacity from the family or village head. If they are going to prison, they are not put in prison but are placed in LPKA which is the place where the child carries out the judicial process, and LPKS the place where the child is currently on trial.

To encourage the implementation of legal protection for perpetrators of child crimes, the involvement of the government in the village is very important. Village officials become part of the government that is closer to the community so that they can work together to realize diversion with the aim of providing legal protection for child offenders. The village government has an obligation to create a child-friendly village to provide protection for the children in their village. The collaboration is a legal counseling activity with the theme of a child-friendly village that can provide knowledge to village officials and the community to support the implementation of legal protection for child offenders. The village is the basis for the formation of a law-abiding society, thus the village must understand the regulations regarding this matter that can reduce acts of abuse of children's rights to obtain legal protection. The first village government in terms of directing and guiding towards legal aid in the form of assistance, secondly helping to improve mental stress usually has an impact on mental and physical, third as a motivator for victims to remain confident and when in examination can provide information without any pressure from the other party and the fourth accompany the victim to counseling to neutralize the element of fear and anxiety towards new people. Legal protection for child offenders is very vulnerable to fraud because not many people know the steps that should be taken to provide legal protection to child offenders.

Conclusion

Every child has protection from the state when involved in legal problems, even though the procedure in law enforcement is the same for adult criminals. Based on international conventions and the 1945 Constitution of the Republic of Indonesia, it has been explained that every child has the right to avoid violence and degrading actions. The SPPA Law regarding juvenile justice for criminal acts has regulated diversion efforts and continues to provide criteria that must be met by child offenders. The purpose of diversion is to secure and rehabilitate perpetrators and help stop juvenile offenders from committing crimes again. States must ensure that children who commit crimes can benefit from diversion according to the main justification offered by UNICEF.

Diversion can keep children away from juvenile delinquency, juvenile delinquency increases the existence of bad stigma from society due to detention. Diversion plays an important role in the rehabilitation of juvenile offenders because it allows treatment by providing proper care and rehabilitation. Family values are the principle of diversion, children are directed back to their parents,

community or social services so that they get education as a form of diversion that can free them from the criminal justice system.

In order to realize effective diversion to protect perpetrators of child crimes, the involvement of the village government in providing legal protection for perpetrators of child crimes is very important. Realizing a child-friendly village to provide counseling or knowledge to village officials and the community to support the implementation of legal protection for children is an obligation of the village government. The village government plays an important role in providing direction and guiding legal assistance in the form of assistance, helping to improve mental stress, as a motivator for victims in examinations, and assisting victims in consulting counseling to reduce fear and anxiety.

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