



Study of Judge's Decisions in Upholding Restorative Justice Law for Defendants and Victims of Underage Children

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ARTICLE INFO

Article history:

Received Dec 2, 2022
Revised Dec 16, 2022
Accepted Dec 31, 2022

Keywords:

Law Enforcement;
Minors;
Restorative Justice.

ABSTRACT

The criminal act of intercourse committed by the accused and the victim under the age of the need to apply restorative justice where the child is a form of hope to continue the hopes of the nation and state. This research method is normative juridical with statutory and case approaches and comparisons. The aim of the research is to find out and analyze the law enforcement of restorative justice for defendants under the age of study, Decision Number: 1/Pid.Sus-Anak/2021/Pn, Decision Number: 7/Pid.Sus-Anak/2021/Pn.Skt, and Decision Number 9/Pid.Sus-Children/2021/Pn.Skh. The results of the research show that Decision Number: 1/Pid.Sus-Anak/2021/Pn and Decision Number: 7/Pid.Sus-Anak/2021/Pn.Skt do not apply restorative justice where the judge prefers to impose prison sentences on children. Meanwhile, Decision Number 9/Pid.Sus-Anak/2021/Pn.Skh. has implemented restorative justice in the form of more action being imposed than to carry out imprisonment for children. Indeed, the crime of intercourse is not included as a crime that is resolved by restorative justice, but it needs to be seen as more in order to give the child offender the opportunity to understand the consequences of his actions and take responsibility and the community can understand the causes of crime for the sake of welfare and crime prevention.

ABSTRAK

Tindak pidana persetubuhan yang dilakukan oleh terdakwa dan korban di dibawah umur perlu menerapkan keadilan restoratif dimana anak adalah wujud harapan penerus harapan cita-cita bangsa dan negara. Metode penelitian ini adalah yuridis normatif dengan pendekatan perundang-undangan dan kasus serta perbandingan. Tujuan penelitian adalah untuk mengetahui dan menganalisis penegakan hukum keadilan restoratif justice terhadap terdakwa anak di bawah umur studi Putusan Nomor : 1/Pid.Sus-Anak/2021/Pn, Putusan Nomor : 7/Pid.Sus-Anak/2021/Pn.Skt, dan Putusan Nomor 9/Pid.Sus-Anak/2021/Pn.Skh. Hasil penelitian menunjukkan bahwa Putusan Nomor : 1/Pid.Sus-Anak/2021/Pn dan Putusan Nomor : 7/Pid.Sus-Anak/2021/Pn.Skt tidak menerapkan keadilan restoratif dimana hakim lebih memberikan penjatuhan hukuman pidana penjara terhadap anak. Sedangkan Putusan Nomor 9/Pid.Sus-Anak/2021/Pn.Skh. telah menerapkan keadilan restoratif berupa lebih dijatuhkan tindakan dibandingkan untuk melakukan penghukuman pidana penjara terhadap anak. Memang dalam tindak pidana persetubuhan tidak termasuk tindak pidana yang diselesaikan dengan keadilan restoratif tapi perlu dipandang lebih guna memberi kesempatan pelaku anak untuk memahami akibat tindakan dan bertanggungjawab serta masyarakat dapat memahami sebab kejahatan demi kesejahteraan dan pencegahan kejahatan.

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I. INTRODUCTION

Indonesia as a state based on law is regulated in the elucidation of the 1945 Constitution of the Republic of Indonesia, namely that Indonesia is a state based on law. Then in the amendment to the 1945 Constitution of the Republic of Indonesia this statement was transferred to Article 1 paragraph (3), namely that Indonesia is a state based on law. So that all forms of attitudes, policies, behavior of state apparatus, and residents are based on and conform to the law (Zaini, 2022). So a country that is based on law with justice, namely all the authorities and actions of the state apparatus regulated by law. This is to provide an overview of justice for social life for citizens (Ramli et al., 2019).

Associating in society by everyone must pay attention to and obey various legal rules in order to create a life of order and peace (Diab, 2014). However, in reality in the midst of community life it is not in accordance with what should be expected. Where the law serves as a norm that must be followed and implemented, sometimes it is not in accordance with expectations because these norms are not relevant to be applied to the reality of society or indeed because of the behavior of community actions that cause the law to be disobeyed (Roseffendi, 2018).

The emergence of problems in people's lives with the advancement of the times is due to technological and cultural developments so that it is not only adults who violate values and norms. It can be seen that consciously or unconsciously children can also violate legal norms (Siregar, 2016).

The provisions of Article 1 point 1 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection state that a child is someone who is not yet 18 (eighteen) years old, including children who are in the womb. Then Article 1 Number 2 states child protection is all forms of activities guaranteeing and providing protection for children and the right to live, grow, develop, and participate optimally in accordance with human dignity and receive protection from violence and discrimination (Arliman, 2017).

Delinquent behavior in children and adolescents in general is a behavior that does not comply with the norms in social life. This behavior is considered by children with social disabilities or abnormalities as delinquency. Child delinquency is called juvenile delinquency. Sunarwiyati divides child and juvenile delinquency at different levels including a. Ordinary mischief such as fighting, wandering around, skipping school, leaving the house without saying goodbye to the family, b. Delinquency leads to violations and crimes such as driving a car without a driver's license, stealing, c. Specific delinquency such as drug abuse, sex outside of marriage, rape (Sarwirini, 2011).

The appearance of the phenomenon that appears creates a reaction from the community to carry out countermeasures in criminal policy. Criminal policies are carried out through penal and non-penal means. Regarding the policy in criminal law can not be separated from the meaning of the policy itself. Policy according to the Big Indonesian Dictionary is a series of concepts and principles that form the outline and basis of plans for implementing a job from leadership and ways of acting by the government and organizations as well as goals and ideals, guiding principles for business management in an effort to achieve goals (Nugroho et al., 2020).

Crime prevention policies can be divided into penal approaches or the application of criminal law and non-penal approaches or approaches outside of criminal law. The weakness of the penal approach in crime prevention must be followed by a non penal approach to prevention without the use of criminal law and efforts to influence crime and punishment through the mass media. Non-penal coping policies are more in the nature of preventing crimes that cause crimes that are centered on social conditions that directly and indirectly cause crime (Suryani Fithri, 2018).

Because many juvenile delinquents occur and then lead to acts of violation and crime so that the number of children in conflict with the law increases. Children as perpetrators and victims of delinquency are increasingly troubling the community. One of the juvenile delinquents in this

discussion is immoral acts. Immoral acts are sensitive crimes so that the alternative used should be a non-penal policy as a criminal policy with means outside of criminal law where the settlement is carried out peacefully between the perpetrator and the victim in order to create a form of Restorative Justice.

One of the non-penal means that can be used in juvenile crimes is by completing Restorative Justice. Restorative Justice is restorative justice, namely a form of restoration of relations of peaceful efforts and atonement for mistakes that the perpetrators of criminal acts want to do, especially the family against the victim as well as his family which is carried out outside the court with the aim that legal problems that occur from criminal acts can be resolved properly so as to materialize agreement and agreement between the parties (Arief & Ambarsari, 2018).

Restorative Justice, a form of embodiment which is also known as diversion, aims to maintain and provide protection for the dignity of the child from the bad influence and stigma of the law which disrupts the future of the child due to the implementation of the law. (Saputra, 2020).

Regarding the research that has been studied previously, it can be seen that it has differences with the research discussed by the author, that the research that will be carried out does not have the same substance. But it can be material for the emergence of novelty in a study. The following are some of the previous studies that have been investigated, including the application of criminal sanctions against minors who commit crimes in terms of the theory of social reality of crime (Mulyawan, 2022) and legal protection of children as perpetrators of crime (Mulyati & Dahwir, 2022).

As research material, the authors took 3 (three) court decisions with perpetrators and victims in the immoral act of having intercourse with minors, including Decision Number: 1/Pid.Sus-Anak/2021/Pn. Mad was sentenced to 10 (ten) months in prison at the Blitar Children's Special Development Institute and required 3 (three) months of work training at the Salafiah Al Hikmah Islamic Boarding School, City of Madiun, Decision Number: 7/Pid.Sus-Child/2021/Pn.Skt was sentenced imprisonment for 4 (four) months, for job training and guidance at the Sukarta Delinquent Education Foundation for 3 (three) months as a substitute for paying a fine, and Decision Number 9/Pid.Sus-Anak/2021/Pn.Skh was sentenced to serve coaching at the Bhina Putra Surakarta Delinquent Education Foundation for 1 (one) year and 6 (six) months.

Efforts from the existing approach tend to prioritize repressive and imposition of prison sentences which surfaced even though the impact is bad on the influence of the child's physical growth, development and psychology as well as impacting the trauma of the child's adult life.

Violations of legal norms that cause children to face the justice system have an impact on the response that law enforcers have not been able to pay attention to cases involving children so that it shows that the law in Indonesia is still not sufficiently in favor of children while children as part of legal subjects must receive a form of protection because children are entrusted by God and as the next generation of families, tribes, nations, and countries and even the successors of mankind (Rahmadhani & Pratiwi, 2022).

An act committed by a child at a young age that violates legal or social norms cannot be called a juvenile crime because it becomes so serious that a child who commits a crime is marked as a criminal. In the event that occurs is a natural process of humans who often experience stages of shock in adulthood (Sarwirini, 2011).

Child protection in society, nation and state is a reference for the civilization of the nation and state itself. So that it becomes so obligatory to strive in accordance with the capabilities of the homeland of a country. child protection as an activity of legal action that results in law. Therefore, legal guarantees are needed for child protection activities. In terms of legal certainty, it is also mandatory to strive for continuity of child protection and prevent abuse that has a negative impact on child protection activities. (Gosita, 2009).

In connection with the above, the fact that the judge in passing the decision is biased because he only sees the legal interests of the child as a defendant, even though the child as the accused can also be said to be a victim, then he is indeed a minor, so accommodations are needed that are more inclined to compensation or the like, to provide restorative justice protection than by carrying out punishment without looking at the interests of the child in the future. So that it will have a detrimental effect on both the perpetrator and the victim. Therefore, special handling is needed in dealing with child perpetrators of crimes, especially immorality so that in the future children can understand and be aware that the actions that have been committed are unlawful and hopefully will not commit their actions again. In line with the background of the problem, the authors formulate the problem of how to uphold the law of restorative justice against defendants under the age of study Decision Number: 1/Pid.Sus-Anak/2021/Pn, Decision Number: 7/Pid.Sus-Anak/2021/ Pn.Skt, and Decision Number 9/Pid.Sus-Anak/2021/Pn.Skh?

II. RESEARCH METHOD

The research carried out is a type of normative doctrinal law research or normative juridical law research as an activity in studying aspects of positive law internal problem solving. (Benuf & Azhar, 2020). This approach in normative juridical law research uses a statutory regulation approach to reveal the meaning and technical interpretation of statutory regulations from a grammatical, legal system, authentic point of view, a case approach studying ongoing legal cases and in court decisions that support legal opinions in the formulation of the analysis is prescriptive in nature, and the comparative approach compares legal provisions in the context of norms, rules, principles and legal systems in order to obtain a concrete description of the differences and similarities of an object (Nurhayati et al., 2021).

Data collection in this study used document studies with the technique of finding and obtaining written material containing facts related to the object under study and materials stored in document form. (Maliki & Al, 2021). Research documents such as a copy of the Decision Number: 1/Pid.Sus-Anak/2021/Pn.Mad, Number: 7/Pid.Sus-Anak/2021/Pn.Skt, Number: 9/Pid.Sus-Anak/2021/Pn.Skh. After the material is collected, it is classified according to type and grouped in order to provide ease of analysis to explain the problem in research. This is a legal material processing technique. With this classification, legal materials will become the basis for analysis which results in a focus on legal materials.

In this research, the method of deductive thinking is used by drawing conclusions from something general and has been proven true and from these conclusions it leads to something special. (Sedarmayanti; & Hidayat, 2002). So as to realize the goal in answering the formulation of the problem. With the deductive method general legal rules are described in the form of concrete legal rules to interpret and conclude specific legal rules (Aprita, 2019) regarding the review of the Decision of the Judge for Law Enforcement of Restorative Justice Against Defendants and Victims of Children Under the Study of Decision Number: 1/Pid.Sus-Anak/2021/Pn.Mad, Number: 7/Pid.Sus-Anak/2021/Pn.Skt, Number : 9/Pid.Sus-Children/2021/Pn.Skh.

III. RESULTS AND DISCUSSIONS

Conditions and characteristics of children and in order to maintain child protection. So cases of children who are dealing with the law must be tried in juvenile courts that are within the general court environment (Saputra, 2020).

Law enforcement according to Jimly Asshiddiqie is the process of carrying out efforts to enforce the function of real legal norms as a guideline for the behavior of legal relations in the life of society and the state. (Moho, 2019).

The meaning of restorative justice is that every form of action is carried out in order to uphold justice through efforts to repair the damage caused by a crime. The involvement of the parties involved in restorative justice, namely the perpetrator, the victim, the families of both parties, and related parties such as community counselors and professional social workers, then all parties jointly carry out settlements based on the wishes of the parties involved. So that with the settlement process recovery can be realized and no retaliation occurs (Rahmadhani & Pratiwi, 2022). In addition to implementing restorative justice, the perpetrator's own requirements must be met by considering the age of the child, recognition, and the child's sense of remorse, as well as the consent of the victim and the victim's family. (Siregar, 2016).

Restorative justice which is a process of diversion. Diversion is the delegation of children of criminal offenders from the criminal justice system to the informal system to be returned to social institutions both in the state government and non-government. This action is carried out in order to avoid the negative consequences that are caused to the soul of the child's development (Sari, 2013). The results of the diversion agreement are peace with or without compensation, returned to the parents or guardians of the child concerned, participating in educational institution training for a maximum of 3 (three) months, and community service. Special treatment to create the physical and mental growth of children for the next generation of the nation and state so that it is necessary to pay attention to their future so that justice will be realized. The judge also takes all actions must first review the truth of the proposed case phenomenon (Saputra, 2020).

The provisions of Article 5 of the Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power, namely that judges must explore the value of life in society where the legal process is adjusted to the principles of peaceful life in society. So of course the judge is obliged to apply restorative justice.

The implementation of restorative justice based on Law 11 of 2012 concerning the Juvenile Criminal Justice System can be carried out by delivering: a. Restorative justice mechanism through diversion in the form of a decision reached an agreement in the form of a determination. Article 12 Paragraph (2) to Paragraph (5) The determination is carried out no later than 3 (three) days from the receipt of the diversion agreement. From the stipulation it is conveyed to the community advisor, investigator, public prosecutor, and judge no later than 3 (three) days after it is stipulated. The investigator continued to issue a stipulation of termination of the investigation. b. Restorative justice in the court mechanism through non-diversion or mediation in the form of a judge's decision must consider the social research report from the community adviser before imposing a decision. Regarding criminal sanctions in Article 69, namely in the form of crimes and actions, regarding actions only apply to children who are not yet 14 (fourteen) years old. The provisions of Article 70 are mild, the child's condition or what happened later can be used as a basis for the judge's consideration not to impose a sentence or action based on the aspect of justice and humanity. In Article 71 Paragraphs (1) and (2) the criminal provisions consist of principal and additional punishments. For the principal sentence for a warning sentence, a sentence with conditions for fostering outside an institution or community service as well as supervision, job training, coaching within an institution, and prison. While additional punishment consists of deprivation of profits derived from criminal acts and fulfillment of customary obligations (Aidil, 2020).

Various types of criminal acts committed by children can be found in Decision Number: 1/Pid.Sus-Child/2021/Pn, Decision Number: 7/Pid.Sus-Child/2021/Pn.Skt, and Decision Number 9/Pid. Sus-Children/2021/Pn.Skh.

In the description of the Decision Number: 1/Pid.Sus-Children/2021/Pn. The position of the case is that a 15 (fifteen) year old and 6 (six) month old girl had intercourse with a 17 (seventeen) year old boy.

The criminal prosecution by the Public Prosecutor stated that the perpetrator of a legitimate child was convinced that he was guilty of committing a crime of intentionally persuading the child victim to have intercourse. Penalized by Article 81 paragraph (2) Law Number 23 of 2002 concerning Child Protection amended by Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection and Law Number 17 of 2016 regarding the Establishment of PERPU Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection in the first indictment, sentences a child to imprisonment for 1 (one) year at LPKA Blitar with the child immediately detained, stipulates that children are required to work training for 3 (three) years month at the Salafiah Al-Hikmah Madiun Islamic Boarding School, stating evidence of ultrasound resulting from a live single fetus, 1 (one) sheet of short-sleeved white shirt, 1 (one) sheet of blue trousers, stipulating that the child pay court fees of Rp. 2,000.00 (two thousand) rupiahs.

Consideration by the judge fulfilled the indictment so that the judge is convinced of the child's guilt without finding reasons to remove the criminal responsibility of the child, the child must be declared guilty of being sentenced to a crime. The aggravating situation is that the child's actions are contrary to the norms of decency and religious teachings, as a result the perpetrator's child destroys the future of the victim's child who is pregnant and has given birth, there is no peace agreement between the two parties. Then mitigating circumstances, namely the perpetrator's child committed the act to the victim's child because of dating, the child is honest about his actions, the child is polite in court and does not make things difficult, the child regrets promising not to repeat the act, the child is still young and has never been punished, the child is still in school and wants to continue their education, parents of children are able to be willing to educate and guide children.

The verdict by the judge stated that the legitimate child was guilty of convincing him to commit the crime of intercourse, sentenced the child to 10 (ten) months in prison at LPKA Blitar and required work training for 3 (three) months at the Salfiah Al-hikmah Madiun Islamic Boarding School, the child's perinath was detained, the evidence is the ultrasound results, 1 (one) white short-sleeved shirt, 1 (one) blue trousers, the child's burden is to pay court fees of Rp. 2,000.00 (two thousand) rupiahs.

According to the author, in Decision Number: 1/Pid.Sus-Anak/2021/Pn, judges are only based on the actions of children who are in conflict with the law, whereas if you look at legal events, there are elements of legal objects that need to be protected. the victim was pregnant and had a child. So that the concept of Article 3 PERMA Number 4 of 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System does not become the basis for child immoral crimes. So it becomes a legal discovery to protect children who have been born. The question arises what about the validity of the recognition of the child who has been born. based on the Child Protection Act that including children who are still in the womb and have been born receive legal protection. Protection of child and infant victims will be successful if using restorative justice that focuses on recovering victims' losses, not on punishing perpetrators. Then, if you look at the mitigating judge's considerations that the perpetrator's child is still young, he has never been punished, admits that he regrets his actions and is still in school, that protection efforts need to be made as early as possible for the best interests of the child from the fetus to the child aged 18 (eighteen) years.

Decision Number: 7/Pid.Sus-Anak/2021/Pn.Skt, The position of the case is that a 17 (seventeen) year old and 8 (eight) month old girl had intercourse with a boy aged 16 (sixteen) years and 4 (four) months.

Criminal prosecution by the Public Prosecutor, namely declaring legally convinced that the child is guilty of violating Article 81 paragraph (2) of the Law of the Republic of Indonesia Number 17 of 2016 concerning the Second Amendment to the Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection to become a Law, dropping the child imprisonment for 4 (four) months

at the Surakarta Children's Detention Center, determines the child for job training and guidance at the Surakarta Delinquent Children Education Foundation for 3 (three) months as a substitute for paying a fine, stipulates the punishment for job training during the day for a period of 2 (two) hours 1 (one) day, ordered the Surakarta Community Advisor to provide assistance, guidance and supervision, evidence of 1 (one) pink long-sleeved shirt, long gray trousers, pink bra, black underwear, case fee of Rp. 2,000.00 (two thousand) rupiahs.

The judge's consideration of the results of the Visum Et Repertum Letter for the female victim found no injuries, the hymen was not intact, and remnants of hymen tissue were visible, and there was no pregnancy and spermatozoa. Then the element of intentionally persuading a child to have intercourse is fulfilled and there is nothing to erase criminal responsibility for reasons of justification and forgiveness, so the child must be held accountable for the act of guilt and be sentenced to a crime.

Amar The verdict by the judge stated that the legitimate child was convinced that he was guilty of committing the crime of intentionally persuading the child to have intercourse as a single charge, imposing a prison sentence of 4 (four) months, stipulating that the sentence should not be served unless later a judge's decision determines otherwise because the convict committed a crime before the 1 (one) year probationary period ends, the child takes part in guidance work training at the Surakarta Delinquent Education Foundation for 3 (three) months in lieu of paying a fine, the child immediately carries out the decision, establishes evidence of 1 (one) pink long-sleeved shirt, cloth pants long gray, pink bra, black panties, court fee of Rp. 2,000.00 (two thousand) rupiahs.

According to the author in Ruling Number: 7/Pid.Sus-Anak/2021/Pn.Skt, during the examination and trial the child was underage, if you look at the results of the Visum Et Repertum Letter the female victim did not find any injuries, the hymen was not intact, and visible remains hymen tissue, and no pregnancy and spermatozoa do not result in ending up destroying the victim's future. Precisely because there is no peace on both sides, it results in punishment of the perpetrators which can damage their future, especially since the perpetrators are younger than the victims. The handling of cases of children as criminal offenders should also pay attention to the age of the perpetrators, the younger the age of the perpetrators, the more important it is to carry out restorative solutions.

Decision Number 9/Pid.Sus-Children/2021/Pn.Skh. The position of the case is that a 13 (thirteen) year old boy had intercourse with a 7 (seven) year old girl.

Criminal prosecution by the Public Prosecutor, namely declaring a legitimate child sure guilty of committing the crime of violence forcing intercourse in Article 81 paragraph (1) Jo Article 76 letter D of the Law of the Republic of Indonesia Number 17 of 2016 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 regarding the Second Amendment to Law No. 23 of 2022 concerning Child Protection becoming a Law, imposing an action on the perpetrator's child at the Surakarta Social Welfare Organizing Institution for 2 (two) years, evidence of 1 (one) yellow underpants, case fee of Rp. . 2,500.00 (two thousand five hundred) rupiahs.

Consideration by the judge of the legal facts of the Letter of Visum Et Repertum in the victim's child, there was bleeding from the vaginal opening, lacerations on the back wall of the vagina, and active bleeding and other abnormalities due to trauma with hard and blunt objects. Article 69 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System stipulates that children under the age of 14 (fourteen) are only subject to action. The thing that aggravated the mistakes of the perpetrator's child was that the child's actions were contrary to religious and moral norms, and caused deep physical and psychological trauma to the victim's child. Then mitigating factors are that the offender's child has never been punished, is still in school, and regrets his actions so that he can improve his attitude and behavior in the future.

Amar The verdict by the judge stated that the legitimate child was sure guilty of committing the crime of intentionally violence against children with intercourse in the primary charge, ordained the actions

of the perpetrator's child for coaching at the YPAN Surakarta Social Welfare Organization for 1 (one) and 6 (six) months, determined evidence 1 (one) yellow underpants, and a case fee of Rp. 5,000.00 (five thousand) rupiahs.

According to the author in Decision Number 9/Pid.Sus-Anak/2021/Pn.Skh. the judge has referred to the age of the child who is still under 14 (fourteen) years, does not deprive the child of the future as a young generation, the child returns to normal society, the judge has read and studied the results of the Community Research from the Surakarta Class II Correctional Center so that the child is given treatment measures at the Surakarta Social Welfare Organizing Institution and of course the victim's child will continue to receive assistance from the Social Service so that the trauma disappears and returns to a better life in the future. So it can be concluded that a form of restorative justice for children has been created.

The existing cases show a social picture that there are still many children who are in conflict with the law who have to undergo criminal justice processes at such a young age and the various stages of the legal process that children go through from police investigations to judge's decisions are long stages for the child's physical and mental health. This makes children as perpetrators and children as victims of criminal acts suffer losses by not realizing the best interests of the child (Ramadhanti & Solihin, 2021).

Crimes of sexual intercourse or obscenity are not included in the category of crimes that can be resolved by restorative justice. However, restorative justice provides an opportunity for the possibility of getting reparation, a sense of security, allows the perpetrators to understand the causes and effects of behavior and be responsible and the community understands the causes of crimes in order to promote welfare and prevent crime. (Siregar, 2016). So far, the justice that has taken place in the Indonesian criminal justice system is a restorative form of justice. Yet the hope is restorative justice (Arief & Ambarsari, 2018).

Article 81 Paragraph (5) of Law 11 of 2012 concerning the Juvenile Criminal Justice System, imposing prison sentences on children should only be the last resort to provide a sense of protection of children's rights with a restorative justice approach. Article 5 diversion must be pursued first as a criminal justice process. Article 7 conditions that diversion cannot be implemented include: a. Punished with imprisonment under 7 (seven) years, b. Not a repeat crime. Article 9: Children are immediately diverted if the crime is in the form of a violation, a misdemeanor, a crime without a victim, and the value of the victim's loss is not more than the local provincial minimum wage.

Children who do not implement diversion because they do not fulfill the requirements must be given a coaching process in a special children's coaching institution. Then it must be a concern for the community and the government that imprisonment for detention of children needs to be avoided (Aidil, 2020). Apart from that, in fact, in the implementation of the victim or the victim's family, the prison sentence given would be fair and appropriate for the perpetrator to get as a deterrent effect because there was no application of a sense of forgiveness for the perpetrator's mistakes. So the agreement between the two parties did not go well. It can also be seen in compensation where the victim usually asks the perpetrator to be able to pay an amount of money that the perpetrator cannot fulfill so that the case continues to the trial stage. The nature of children who are still in an unstable condition and is the hope of the nation's future should be a special consideration and concern for law enforcement officials for children who are in conflict with the law so that efforts to make solutions for children to be realized are to avoid the criminal system and bad reactions that will be received in the future because of the child's status bear convicts (Rahmadhani & Pratiwi, 2022).

IV. CONCLUSION

Based on the description of the law enforcement of restorative justice against the defendant under the age of study, Decision Number: 1/Pid.Sus-Anak/2021/Pn, Decision Number: 7/Pid.Sus-Anak/2021/Pn.Skt, and Decision Number 9 /Pid.Sus-Anak/2021/Pn.Skh it can be concluded that the Juvenile Criminal Justice System in the laws that regulate it is felt to be good in protecting children. However, in actual application, especially Decision Number: 1/Pid.Sus-Anak/2021/Pn and Decision Number: 7/Pid.Sus-Child/2021/Pn.Skt, it still shows Law Number 11 of 2012 concerning the Juvenile Criminal Justice and PERMA Number 4 of 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System have not been implemented and can be used optimally. So that restorative justice has not been created and is hampered. Not in accordance with the goals and expectations of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and PERMA Number 4 of 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System which should be a requirement for restorative justice to be sought in the form of diversion where judges give more the decision to punish the perpetrator's child when there are several considerations that can be used in the application of restorative justice.

Then for the enforcement of the law of restorative justice Decision Number 9/Pid.Sus-Anak/2021/Pn.Skh has fulfilled its elements in its application which is more concerned with the future of the child by imposing action efforts than imposing prison sentences.

Criminal decency in the form of intercourse or obscenity is not included in the category of criminal acts that can be resolved by restorative justice. However, restorative justice provides an opportunity for the possibility of getting reparation, a sense of security, allows the perpetrator to understand the causes and effects of his wrong and responsible behavior and the community can be able to understand the causes of a crime in order to promote welfare and prevent the crime.

In the application of restorative justice as a good solution for minors, it has not been carried out properly, including because there are still law enforcement officers from investigations to judge decisions that have permanent power, do not pay close attention to the principles and values that should be applied and the dominant factors of society, which are more concerned with the partiality to retaliate against the child victim rather than forgiving the perpetrator of the child so that it becomes very clear if the child's future becomes less of a concern.

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