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JURIDICAL ANALYSIS OF THE ROLE OF INVESTIGATORS IN RESOLVING CRIMINAL ACTS OF CHILD ABUSE THROUGH RESTORATIVE JUSTICE APPROACHES (RESEARCH STUDY AT THE COAL RESORT POLICE)

By

Taufiq Hidayat Thayeb¹, Cut Nurita², Tajuddin Noor³

^{1,2,3} Universitas Islam Sumatera Utara

Email: Taufiq.Thayeb@gmail.com¹, cutnurita123@gmail.com², tajuddin.noor@fh.uisu.ac.id³

ABSTRACT

Restorative justice in persecution is an approach to criminal case resolution that involves perpetrators, victims, and related parties to find a common solution that emphasizes restoration rather than retaliation. The regulation of restorative justice law against children who commit criminal acts of abuse is based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, the Regulation of the National Police of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice. Law enforcement with restorative justice at the Batu Bara Resort Police in the process of investigating children as perpetrators of criminal acts of persecution is the application of an approach that prioritizes the recovery of victims and the community.

Keywords: Restorative Justice, Children, Persecution.

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ABSTRAK

Keadilan restoratif (restorative justice) dalam kasus penganiayaan adalah pendekatan penyelesaian perkara pidana yang melibatkan pelaku, korban, dan pihak terkait untuk mencari solusi bersama yang menekankan pemulihan (restorasi) ketimbang pembalasan. Pengaturan hukum restoratif justice terhadap anak yang melakukan tindak pidana penganiayaan berdasarkan UU Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidanan Anak, Peraturan Kepolisian Negara Republik Indonesia Nomor 8 Tahun 2021 Tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif. Penegakan hukum dengan restoratif justice di Kepolisian Resor Batu Bara dalam proses penyidikan anak sebagai pelaku tindak pidana penganiayaan adalah penerapan pendekatan yang mengutamakan pemulihan korban dan masyarakat.

Kata Kunci: Restoratif Justice, Anak, Penganiayaan



INTRODUCTION

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) states that the state of Indonesia is a state of law, so that in the general explanation of the 1945 Constitution of the Republic of Indonesia regarding the system of government of Indonesia, it is explained that Indonesia is a country based on law not based on power. One of the problems that often occurs in people's lives in Indonesia along with the progress of the times which is marked by technological and cultural developments, makes not only adults who can violate the values and norms that exist in society, especially legal norms, someone who is categorized as a child can also violate legal norms both consciously and unconsciously.

Violations of legal norms that make a child have to deal with the judicial system, provoke a response that there are law enforcers who have not paid special attention to child suspects and this shows that the existing law in Indonesia is still not enough in favor of children, while as part of the legal subject children should receive protection because children are entrusted by God and the next generation of the family. clans, tribes, nations and countries as well as the next generation of mankind. Child protection is all efforts made to create conditions so that every child can carry out his or her rights and obligations for the development and growth of children in a reasonable physical, mental and social manner.

The act of violating norms, both legal norms and social norms committed by children is called juvenile delinquency, it tends to be said to be juvenile delinquency rather than child crime, because it is too harsh if a child who commits a criminal act is said to be a criminal. Criminal acts are not only committed by adults, not a few of the perpetrators of criminal acts are children. When children are handled through criminal justice like adults, the resulting impact is ineffective, it is not the deterrent effect that arises, but most children who have gone through the criminal justice process actually feel prolonged trauma. Because psychologically children are different from adults, the concept of criminal justice that puts quite a lot of pressure on the perpetrators of criminal acts is not appropriate to be used on children.

Children are not to be punished but must be given guidance and coaching, so that they can grow and develop as normal children who are healthy and fully intelligent. Children are the gift of Allah Almighty as a prospective successor to the nation's generation who are still in a period of



physical and mental development. Sometimes children experience difficult situations that make them commit unlawful acts. However, children who violate the law are not worthy of punishment, let alone put in prison. Considerations that children are not the same as adults both physically and psychologically, where psychologically children are at a vulnerable time. Children are not yet independent, do not have full awareness, and their personalities are not stable, so for the sake of children who will be the successors to the implementation of the state, it is appropriate for law enforcement officials to apply different treatment to children who are in conflict with the law.

RESEARCH METHODS

This research is descriptive analytical, the meaning is that this research is a research that describes, examines, explains and analyzes problems in the crime of livestock theft which is related to laws and regulations which are then analyzed. This research is a scientific activity based on certain methods, systematics and thinking that aims to study a certain law by analyzing it. Analysis of legal aspects both in terms of the provisions of applicable regulations regarding law enforcement against the crime of forest encroachment. The type of legal research used is normative juridical which is "a study that places norms as the object of research, both legal norms in laws and regulations, legal norms derived from a law". Also called doctrinal law research, namely "legal research that uses secondary data. Normative legal research is known as qualitative legal research".

RESULTS AND DISCUSSION

Cases that can be resolved through restorative justice in investigations include minor criminal acts such as theft, minor abuse, and cases involving children. Restorative justice can also be applied in narcotics cases, cases of women facing the law, and cases of family theft. The requirements for the application of cases that can be resolved through restorative justice in the investigation process are guided by the Regulation of the National Police of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice which regulates general and special requirements for the application of restorative justice, including that the case is not a crime of terrorism, state security, corruption, or a crime against



life.

The application of restorative justice in investigations, the investigator has the authority to stop the investigation based on the Investigation Termination Order (SP3) or the Investigation Termination Order (SP2Lidik) based on the principle of restorative justice. This means that investigators can choose not to proceed with the criminal justice process if the case can be resolved through mediation, reconciliation, and recovery between the victim and the perpetrator.

In the process of investigating children in conflict with the law, restorative justice can be applied to resolve criminal cases by involving the perpetrator, victim, family, and other related parties in seeking a fair settlement and emphasizing recovery, not retaliation. Diversion is one of the mechanisms that realizes restorative justice in protecting children, by diverting cases from the formal criminal justice process. The application of restorative justice in the investigation of children can be carried out through Diversion, which is the transfer of criminal cases committed against children from the formal criminal justice process. This aims to avoid stigma and keep children away from the judicial process, as well as allow children to return to the social environment in a reasonable manner.

Diversion is a process that has been internationally recognized as the best and most effective way to deal with children who are facing the law. Interventions against children facing the law are broad and diverse, but most emphasize detention and punishment, regardless of how minor the offence is or how young the child is. According to the Republic of Indonesia Law Number 11 of 2012, diversion is the transfer of the settlement of children's cases from the criminal justice process to the process outside the criminal court. Marlina stated "Diversion is an attempt to divert, or channel out, youthful offenders from the juvenile justice system.

Diversion is a system that provides better opportunities for perpetrators of petty crimes who are committing their actions for the first time, compared to giving punishment in the form of confinement. The main goal of diversion theory is to avoid and keep children away from the judicial process, so as to prevent stigmatization of children who are in conflict with the law and it is hoped that children can return to the social environment normally. The process of implementing diversion in criminal acts does not have special requirements, because in the diversion process the traffic problem is regulated the same as law Number 11 of 2012



concerning the juvenile criminal justice system. The main principle of implementing the diversion concept is persuasive action or a non-penal approach and providing an opportunity for a person to correct mistakes. Officers in conducting diversion show the importance of obedience to laws and rules. Officers carry out diversion by means of a persuasive approach and avoid arrests that use acts of violence and coercion.

According to the concept of diversion in handling cases of children facing the law, due to the adventurous nature of children, the punishment of children is not solely to punish but to re-educate and re-evaluate. To prevent children from exploitation and violence, it will be better if it is diversionary and if it is punished it will not be effective. The concept of diversion is also based on the fact that the criminal justice process against the children of criminal offenders through the criminal justice system causes more harm than good. The basic reason is that the court will stigmatize children for their actions, so it is better to prevent them from leaving the criminal justice system.

The implementation of the method is enforced in order to achieve the welfare of children based on the principle of the best interests for children. In other words, the diversion is based on child protection and fulfilment child rights based approach. The 1959 Declaration of the Rights of the Child can be referred to to interpret the principle of the best interests for children. The second principle states that children should enjoy special protection and be provided with opportunities and facilities through legal and other efforts so as to enable children to develop physically, mentally, morally, spiritually and socially in realizing the freedom and honor of children.

This principle can be found in the 2 (two) General Comments of the Human Rights Committee, especially General Comments Numbers 17 and 19) as an effort by the Commission to interpret the law on the principle of the best interests of the child in the case of separation of the child from the parental environment (parental separation or divorce).

The welfare approach can be used as the basis for the philosophy of handling violations of the law on the age of children. In principle, this approach is based on 2 (two) factors, namely children are considered not to understand the mistakes that have been made, so it is appropriate to be given a reduction in punishment, as well as a distinction between giving punishment for children and adults. When compared to adults, children are believed to be easier to nurture and



be aware of.

Based on the above provisions, it is clear that diversion is carried out both at the level of investigation, prosecution and examination of children's cases in the District Court. In the criminal justice sub-system (Investigation, Prosecution and Trial) must be resolved through diversion. If diversion is not carried out, it can be requested for null and void.

Diversion is applied to children who are 12 (twelve years old) but not yet 18 (eighteen) years old or have reached the age of 12 (twelve) years even though they have been married but are not yet 18 (eighteen) years old, who are suspected of committing criminal acts. The judge is obliged to seek diversion in the event that the child is charged with committing a criminal act that is threatened with imprisonment of less than 7 (seven) years and is also charged with a criminal act that is threatened with a prison sentence of 7 (seven) years or more in the form of a subsidiary, alternative, cumulative or combination (combined) indictment. The application of diversion provisions is an important thing to consider, because with diversion, children's human rights can be more guaranteed, and children can be avoided from the stigma of being a "delinquent child", because criminal acts that allegedly involve a child as a perpetrator can be handled without the need to go through a legal process. The basic idea of this diversion or diversion is to avoid the negative effects of conventional examinations of juvenile criminal justice on children, both the negative effects of the general justice process and the negative effects of stigma (bad labels) of the judicial process, so the conventional examination is transferred, and the child is subject to a diversion program. Diversion actions can be carried out by the police, prosecutor's office, courts and correctional institution supervisors.

The application of diversion in cases of children who are facing the law is a decisive solution for children. The use of violence in the implementation of diversion can make the implementation of diversion a failure at every level. Officers must demonstrate the importance of obedience to the law by means of a persuasive approach and avoid arrest by using acts of violence and coercion to carry out diversion. As is known, diversion is the authority of law enforcement apparatus that handles criminal cases to take action to continue the case or stop the case, take certain actions in accordance with its policy.

Based on this, there is a policy whether the matter is continued or stopped. If the case is continued, it will face the criminal system and there will be criminal sanctions that must be



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carried out. If the case is not continued, then from the beginning the investigation level of the case will be stopped for the benefit of both parties where the principle is to restore the relationship that occurred due to a criminal act for the future benefit of both parties. This is the principle why diversion is carried out, especially for juvenile crimes because it is to realize welfare for the child itself. Through diversion, it can provide opportunities for children to become new figures who are clean from criminal records and do not become resedivisive.

CONCLUSION

Legal regulation of the settlement of criminal acts of persecution through the restorative justice approach in Indonesia based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, the National Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice. Diversion has been implemented since the issuance of Perma No. 04 of 2014 dated July 24, 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System.

The role of investigators in resolving criminal acts of persecution through a restorative justice approach is to prioritize the recovery of victims and the community, as well as child development, not just punishment. This means that the investigation process not only focuses on proving the child's faults, but also involves the victim, the victim's family, the perpetrator, and the perpetrator's family to jointly find a solution that benefits all parties. Obstacles in the application of restorative justice in the investigation process of children as perpetrators of criminal acts of persecution are the difficulty of reaching an agreement between the victim and the perpetrator, as well as the lack of understanding and skills of law enforcement in implementing restorative justice.

BIBLIOGRAPHY

- Abidin, Zainal, Criminal Law I , Ghalia Indonesia, Jakarta, 2017.
- Adi, Rianto, Social and Legal Research Methodology, Granit, Jakarta, 2014.
- Adji, Oemar Seno, Criminal Laws, Erlangga, Jakarta, 2014.
- Ali. Mahrus, Basics of Criminal Law. Sinar Grafika, Jakarta, 2011.
- Ali, Zainuddin, Legal Research Methods, Sinar Grafika, Jakarta, 2019.



Ashshofa, Burhan, Legal Research Methods, Rineka Cipta, Jakarta, 2014

Arief. Barda Nawawi, Potpourri of Criminal Law Policy. PT. Citra Aditya Bakti, Bandung, 2012

Nst, V. F. H., Isnaini, D. B. J., Supriadi, S., Syafrizal, S., & Ichsan, R. N. (2025). Model Of Human Resource Collaboration Strategy In Strengthening Msme Halal Products In The Indonesian Nias Islands. *Jurnal Ilmiah METADATA*, 7(3), 62-79.

Ichsan, R. N., Nst, V. F. H., Supriadi, S., Syafrizal, S., & Lubis, F. P. A. (2025). Sharia principles, digital transformation, and local economy: Challenges and opportunities for Sharia cooperatives in Langkat Regency. *Jurnal Ilmiah METADATA*, 7(3), 30-41.

Ichsan, R. N., Siregar, B. A., Suma, D., Nst, V. F. H., & Lubis, F. P. A. (2025). Halal Industry In The Fulfillment Of Sharia Maqasid: A Qualitative Study On Halal Business Actors In North Sumatra. *Jurnal Ilmiah METADATA*, 7(2), 80-97.

Wijaya, D. M., Nst, V. F. H., & Isnaini, D. B. Y. (2025). Designing A Talent Management Strategy To Address Organizational Transformation Challenges: A Case Study of PT. Sentosa Deli Mandiri. *Moneter: Jurnal Keuangan dan Perbankan*, 13(1), 125-138.

Nst, V. F. H., Ichsan, R. N., Supriadi, S., & Lubis, F. P. A. (2025). Edukasi Konsep Pariwisata Ramah Muslim Bagi Pelaku Usaha Pariwisata Di Kabupaten Langkat, Sumatera Utara. *Jurnal Pengabdian Masyarakat Hablum Minannas*, 4(1), 26-36.

Nst, V. F. H., Wijaya, D. M., Azaman, A., & Nasti, N. (2025). Sustainability Performance Management Integration: A Systemic Approach In Improving The Organizational Competitiveness Of PT. Sentosa Deli Mandiri. *Moneter: Jurnal Keuangan dan Perbankan*, 13(1), 114-124.

Nst, V. F. H., Wijaya, D. M., & Azaman, A. (2025). Pengaruh Modal Intelektual Dan Komitmen Organisasional Terhadap Kinerja Pegawai Dengan Organizational Citizenship Behavior (Ocb) Sebagai Variabel Intervening Pada Pemerintahan Kota Medan. *Jurnal Ilmiah METADATA*, 7(1), 1-15.

Nst, V. F. H., Asmuni, A., & Anggraini, T. (2024). Review Of Fiqh Muamalah On The Forms Of Online Buying And Selling Contracts In The Tiktok Shop Application. *Jurnal Review Pendidikan dan Pengajaran (JRPP)*, 7(3), 10804-10812.

Ichsan, R. N., Nst, V. F. H., Nasution, L., & Hutabarat, L. (2024). The effect of halal labeling on the performance of small and medium enterprise (SME) in medan city. *Jurnal Mantik*, 8(1), 421-427.

Lubis, M. R., Ichsan, R. N., Nasution, L., Nst, V. F. H., & Lubis, D. (2024). Analysis Of Factors Affecting The Amount Of People's Business Credit Loans In Lubuk Pakam District, Deli Serdang Regency, North Sumatra Province. *Jurnal Ekonomi*, 13(02), 915-923.



- Nst, V. F. H., Majid, M. S. A., & Harahap, I. (2024). The Role Of Imports In Development According To Islamic And Conventional Macroeconomic Perspectives. *Moneter: Jurnal Keuangan dan Perbankan*, 12(1), 100-106.
- Devi, R. S., Lubis, M. A., Nst, V. F. H., & Sihombing, A. (2024). Persaingan Usaha Tidak Sehat Berdasarkan Undang-Undang Nomor 5 Tahun 1999 Tentang Larangan Praktek Monopoli Dan Persaingan Usaha Tidak Sehat. *Jurnal Ilmiah METADATA*, 6(1), 108-118.
- Nasution, L., Ichsan, R. N., Nst, V. F. H., & Rizkina, S. (2024). Pendampingan Akreditasi Institusi Perguruan Tinggi Di Akademi Keperawatan Hkbp Balige. *Pedamas (Pengabdian Kepada Masyarakat)*, 2(01), 113-117.
- Nst, V. F. H., Nasution, M. Y., & Sugianto, S. (2024). Relationship ushul Fiqh, Qowa'id Fiqih dan Maqashid Al-Syariah With Islamic Economy. *Jurnal Ilmiah Ekonomi Islam*, 10(1), 1017-1023.
- Nst, V. F. H., Tarigan, A. A., & Nasution, Y. S. J. (2023). Prinsip Equilibrium Perilaku Berkonsumsi Dalam Perspektif Al Qur'an Surat Al Furqon Ayat 67. *Management Studies and Entrepreneurship Journal (MSEJ)*, 4(6), 10024-10034.
- Lubis, M. R., Siregar, G. T., Nurita, C., Nst, V. F. H., & Lubis, D. (2023). Peningkatan Kesadaran Hukum Masyarakat: Memahami Perbedaan Tindak Pidana Penipuan dan Penggelapan. *Bulletin of Community Engagement*, 3(2), 261-270.
- Ichsan, R. N., Nst, V. F. H., Nasution, L., & Hutabarat, L. (2024). The effect of halal labeling on the performance of small and medium enterprise (SME) in medan city. *Jurnal Mantik*, 8(1), 421-427.
- Lubis, M. A., Siregar, G. T., Lubis, M. R., Nst, V. F. H., & Ichsan, R. N. (2023). Prosedur Jual Beli Tanah Dan Bangunan Warisan Yang Dilakukan Dihadapan Ppat (Procedure For Sale And Purchase Of Heritage Land And Buildings Carried Out Before The Ppat). *PKM Maju UDA*, 4(3), 1-13.
- Ichsan, R. N., Syahbudi, M., & Nst, V. F. H. (2023). Development of Islamic Human Resource Management in The Digital Era For MSMEs and Cooperatives in Indonesia. *IQTISHODUNA: Jurnal Ekonomi Islam*, 12(2), 497-512.
- Ichsan, R. N., Tanjung, A. M., & Nst, V. F. H. (2023). Pemanfaatan Website Online Single Submission (Oss) Dalam Kegiatan Usaha Mikro Kecil Menengah Dikota Medan Berbasis Maqashid Syariah. *Jurnal PKM Hablum Minannas*, 2(2), 57-72.
- Ichsan, R. N., Lubis, M. A., Nst, V. F. H., & Panggabean, N. R. (2023). Sosialisasi Peningkatan Usaha Mikro Kecil Dan Menengah Berbasis Manajemen Syariah Di Kecamatan Medan Area Kota Medan. *PKM Maju UDA*, 4(2), 42-49.
- Nst, V. F. H., Suma, D., Siregar, B. A., Ichsan, R. N., Panggabean, N. R., & Sibarani, J. P. (2023). Pendampingan Pemasaran Keripik Ubi Dalam Meningkatkan Penjualan Berbasis Digital Di Desa Marendal 1 Kecamatan Patumbak, Deli Serdang-Sumatera



- Utara. *Jurnal PKM Hablum Minannas*, 2(1), 45-52.
- Ammar, D., Danialsyah, D., Lubis, M. F. R., Purba, A. R., & Nst, V. F. H. (2023). Pelaksanaan Pemberian Marga Dalam Sistem Perkawinan Etnik Mandailing (Studi Di Lembaga Adat Budaya Mandailing Medan). *Jurnal PKM Hablum Minannas*, 2(1), 68-79.
- Siregar, G., Lubis, M. A., Lubis, M. R., Nst, V. F. H., & Nasution, L. (2023). Perbuatan Melawan Hukum Akibat Membangun Di Atas Tanah Wakaf (Unlawful Actions Caused By Building On The Waqf Land). *PKM Maju UDA*, 4(1), 31-38.
- Nst, V. F. H., Nasution, Y. S. J., & Siregar, S. (2024). Implementation Of Wakaf As A Tool Of Social Finance To Achieve The Sdgs In Indonesia Case Study On Indonesian Waqf Board. *Moneter: Jurnal Keuangan Dan Perbankan*, 12(3), 623-634.
- Ichsan, R. N., Nst, V. F. H., Nasution, L., & Hutabarat, L. (2024). *Buku Pelatihan Dan Pengembangan SDM*. CV. Sentosa Deli Mandiri.
- Ichsan, R. N., Nst, V. F. H., & Panggabean, N. R. (2024). *Buku Ajar Sistem Informasi Manajemen (SIM)*. CV. Sentosa Deli Mandiri.
- Ichsan, R. N., Syahbudi, M., Barus, E. E., & Nst, V. F. H. (2024). The Role Of Islamic Banking Literacy And Ease Of Use On Achieving Sustainable Development Goals And Maqashid Al-Shariah In Indonesia. *International Journal Of Economics And Finance Studies*, 16(2), 190-208.
- Ichsan, R. N., Syahbudi, M., Barus, E. E., & Nst, V. F. H. (2024). The Role Of Islamic Banking Literacy And Ease Of Use On Achieving Sustainable Development Goals And Maqashid Al-Shariah In Indonesia. *International Journal Of Economics And Finance Studies*, 16(2), 190-208.
- Nst, V. F. H., Asmuni, A., & Anggraini, T. (2024). Review Of Fiqh Muamalah On The Forms Of Online Buying And Selling Contracts In The Tiktok Shop Application. *Jurnal Review Pendidikan Dan Pengajaran (JRPP)*, 7(3), 10804-10812.
- Ichsan, R. N., Nst, V. F. H., Nasution, L., & Hutabarat, L. (2024). The Effect Of Halal Labeling On The Performance Of Small And Medium Enterprise (Sme) In Medan City. *Jurnal Mantik*, 8(1), 421-427.
- Lubis, M. R., Ichsan, R. N., Nasution, L., Nst, V. F. H., & Lubis, D. (2024). Analysis Of Factors Affecting The Amount Of People's Business Credit Loans In Lubuk Pakam District, Deli Serdang Regency, North Sumatra Province. *Jurnal Ekonomi*, 13(02), 915-923.
- Nst, V. F. H., Majid, M. S. A., & Harahap, I. (2024). The Role Of Imports In Development According To Islamic And Conventional Macroeconomic Perspectives. *Moneter: Jurnal Keuangan Dan Perbankan*, 12(1), 100-106.