

Criminal Settlement Of Criminal Acts Of Motorcycle Theft By Child Through Restorative Justice

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Abstract.

A criminal act is an unlawful behavior carried out by an individual and must be punished for the wrongdoing as stated in the law. Criminal acts committed by children or known as juvenile delinquency are now increasingly widespread and varied, both in frequency in quantity or in seriousness in quality in the form of crime. If child crime develops rapidly and widely, what happens is that children who commit crimes will grow into adults and have the potential to become criminals if there is no serious response early on. This study uses an approach with a normative juridical method with a descriptive analytical research specification. The data used is secondary data. Based on the research results, the conclusions in this study include 1) The factors that cause children to commit the crime of theft include internal factors (personality), environmental factors and economic factors. 2) Implementation of restorative justice in handling the crime of motorcycle theft which is in accordance with the Implementation of the Diversion Child Criminal Justice System Law Number 11 of 2012. In applying restorative/diversion justice, there are always efforts for every child who commits a crime. In some cases, diversion can be carried out with the consent of all parties, so that the case does not reach the prosecution level. Restorative justice only applies to petty crimes, with mediation through deliberation. The application of restorative justice has not been effective, because there are still people who fail to implement the purpose of diversion in the investigation of criminal cases of theft of children's motorcycles, especially the police have not implemented the purpose of restorative justice. Everything from the number of children who steal motorcycles. 3) Obstacles in overcoming the crime of motorcycle theft by children through restorative justice, namely the difference in perceptions related to the meaning of justice by restorative justice actors and the existence of an incosystem in the implementation of regulations, especially those regulated in article 7 paragraph (2) of law number 11 of 2012 about the juvenile criminal justice system.

Keywords: *Children; motorcycle theft; criminal case; restorative justice.*

I. INTRODUCTION

In our country, Indonesia, one of the legal laws is public law or known as criminal law. The criminal law is classified in formal criminal law/criminal procedural law, as well as material criminal law/criminal law. Formal criminal law contains regulations on how the state, through the intermediary of a number of instruments of its authority, utilizes its rights to impose penalties in such a way by compiling criminal procedures. While the material criminal law contains provisions as well as a number of formulations for various criminal acts; a number of regulations regarding the requirements for how a person may be punished; determination of persons capable of being punished; as well as provisions relating to penalties.¹ Like the formulation in the Act, a crime is a behavior to deny the law that is carried out by someone and deserves to be subject to a balanced punishment for the mistakes made. Individuals who commit criminal acts will be held accountable for their behavior through punishment if they are guilty. The regulation of criminal acts is contained in Article 1 of the Criminal Code, that the act for which the perpetrator may be convicted/punished is an act that has been described in the law before the act is carried out.² A criminal act is defined as an act that is prohibited by a legal order which is accompanied by threats of sanctions such as certain crimes for violators of the prohibition. Or it could also be said that bullying is prohibited by a legal system and is punishable by a criminal offense, as long as it is remembered that abstinence is directed at an act (a condition or case that arises because of a person's actions), while the threat of punishment is directed at the individual who gave birth to the case.

³The crime of theft is a type of crime that is very common and occurs quite a lot than other types of crimes against property and or other materials. Regarding the crime of theft, it is regulated in Article 362 to Article 367 of the Criminal Code. In the Criminal Code can be classified into 4 (four) types of theft, namely: ordinary theft which is regulated in Article 362 of the Criminal Code, minor theft which is regulated in Article 364 of the Criminal Code, theft with weighting is regulated in Article 363 of the Criminal Code and theft with violence as regulated in Article 365 of the Criminal Code. . Where the severity of the punishment for the crime of theft is always associated with the crime of theft committed. Article 362 of the Criminal Code states that anyone who takes something, wholly or partly belonging to another person, with the intention of unlawfully possessing it, is threatened with theft, with a maximum imprisonment of five years or a maximum fine of nine hundred rupiahs. Criminal acts committed by children or known as juvenile delinquency are now increasingly widespread and varied, both in frequency in quantity or in the seriousness of the quality in the form of the crime. If child crime grows rapidly and expands then what happens is that the children who do evil will grow up and have the potential to become criminals if no serious countermeasures are taken early on. The number of cases handled by the Semarang Police where the perpetrators are children, such as theft of a motorcycle. The existence of a motorcycle theft case carried out by elementary school children in the city of Semarang made the police seek to resolve the case through restorative justice efforts.

Supposedly, various crimes committed by children should not be considered purely as crimes, but rather a form of juvenile delinquency, because the actions committed by children cannot be entirely accounted for by the child independently. It is clear in various cases that children as those who commit crimes often become victims as well. Children as perpetrators of crime are often victims of their environment; his helplessness; are also victims of a system that neglects them.⁴ The majority of cases that occur in a number of children who are in contact with the law are caused by physical and mental immaturity due to parents/guardians who fail to educate and teach them.⁵ Children are a mandate from God Almighty where dignity is inherent in him as a fully human being. Each child carries a dignity that must be respected, and every child born is obliged to obtain rights without the child having to ask. Relevant to the provisions of the Convention on the Rights of the Child which was legalized by the Indonesian government through Presidential Decree no. 36 of 1990; then also contained in Law no. 4 of 1979 concerning Child Welfare; also Law no. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, all of which voiced general principles of child protection, namely non-discrimination; the best interests of the child; survival and development of children; also respect the participation of children. Children who commit criminal acts within the positive legal framework in force in Indonesia are still required to be held accountable for their actions. Even so, because the perpetrators are still minors, the law enforcement process is carried out exclusively. In its development, in order to protect children, especially legal protection in the justice system, there was a law that formulated a juvenile court, namely Law no. 3 of 1997 which has been updated with Law no. 11 of 2012 concerning the Juvenile Criminal Justice System.

Article 5 of the Law stipulates that the Juvenile Criminal Justice System must prioritize a restorative justice approach. The problem of criminal cases committed by children, not all of them must be ended through formal justice, the justice approach provides an alternative for the solution in order to achieve the best relevance for children and with consideration of the principle of justice for victims which is called the restorative justice approach. The reason for the settlement through this approach is to provide an opportunity for lawbreakers to become good people again through non-formal channels by including community resources, then trying to provide justice in cases of children who have been blind to criminal acts to law enforcement officers. The practice of restorative justice is contained in Law no. 11 of 2012 concerning the juvenile criminal justice system in which it highly respects the dignity of the child. The implementation of restorative justice for criminal acts of minors is an interesting concept to be studied and observed, because in

addition to discussing justice, restorative justice is also a proportional justice system because it is able to realize protection as well as respect and interests between victims and perpetrators who are at odds in a balanced way. Restorative justice is a form of the latest style of approach in handling criminal cases. Although this style of approach is still widely debated by experts, in practice this approach is still alive and well and has an influence on policy and law enforcement in various countries. The problem in this study is what kind of policy the application of a restorative justice approach to the handling of legal cases in Indonesia is and how the design of restorative justice can be a component of criminal law reform in the future period. Restorative justice is the handling of criminal cases involving the perpetrators; victim; the families of the perpetrators and victims; and other related parties to seek a just settlement together by prioritizing the return to its original condition and not being a reward.

So the emphasis in restorative justice theory is ending criminal cases by children using the principle of kinship. Many countries make the design of restorative justice one of the many vital approaches to crime and justice that are continuously considered in the judicial system and legislation.⁶

Based on this explanation, the formulation of the problems in this research include:

1. What factors cause children to commit theft?
2. How is the application of restorative justice in handling the crime of motorcycle theft committed by children?
3. What are the obstacles when resolving criminal cases of motorcycle theft by children through restorative justice?

Criminal Act

A criminal act is analogized as a "criminal event", which is an act or series of human actions that are contrary to the law or other regulations, against which a legal action is taken, the term crime comes from a term in Dutch law, namely *Strafbaar feit*. Therefore, the Indonesian Criminal Code (KUHP) is based on the Dutch *Wetboek Van Strafbaarrecht*, so the original term is the same, *Strafbaarfeit*.

Theft

Article 362 of the Criminal Code which reads: "Anyone who takes something that wholly or partly belongs to another person, with the intention of controlling the object against his rights, then he is punished for his mistake of committing theft with a sentence of eternal imprisonment. five years or a maximum fine of sixty rupiahs."⁷

Restorative Justice

Restorative justice is a fundamental thought that covers a wide range of human emotions including healing, compassion, forgiveness, reconciliation and sanctions if necessary (not necessarily in prison). Restorative justice offers a process in which those involved in criminal or criminal behavior, be they victims, perpetrators, families involved or the wider community, are all needed to have the opportunity to resolve the problems that occur, as a wise step to resolve legal issues and mutually related.⁸

II. METHODS

This legal study uses a normative juridical approach. The implementation of normative juridical law studies is through the technique of reviewing various library materials which are secondary data and also known as library law research.⁹ The basic data in normative legal research is library materials, which are categorized as secondary data. The scope of the secondary data is very broad, covering various personal letters, diaries, various books, to a number of official documents from the Government.¹⁰ The specifications in this research are analytical descriptive, which is a way for researchers when examining problems that are carried out through concrete descriptions and linked with bound legal norms.¹¹ In the study, the data used is

secondary data, namely data that is used and obtained not directly but through data that is already available. In this study, secondary data consisted of: 1) Primary legal materials (statutory regulations); 2) Secondary legal materials (books and literature, journals, legal opinions, doctrines, a number of theories from the legal literature and research results); 3) Tertiary legal materials (big Indonesian dictionary and internet).

III. DISCUSSION

1. Factors That Cause Children To Commit Theft

KBBI contains "Tendency" which means willingness; desire / passion. So, if a minor has a desire or likes to commit acts of theft, it is important to understand and examine the triggering factors. In order to understand the triggers for the implementation of the criminal act of theft by minors, it is necessary to observe a number of tendencies or interrelated factors, namely the child's internal factors; environmental factor; as well as socio-economic factors.

The most important factor that has an impact on a child's life is his family or parents. Even as a fetus, a major influence comes from the mother's emotional attitude in the development of her womb. Drs. Abdulsyair explained, a number of internal factors that trigger the birth of a crime include:¹²

- a. The individual's internal special nature.
- b. The general internal nature of the individual.

Children in socializing, their environment also affects the development of the soul and personality, because as humans, we gather; play; and hanging out with friends is an instinct. Through that association comes a good or bad influence on children. Being good at seducing his partner becomes the habit of bad children, then his partner takes part and carries out a crime according to plan. The opinion of B. Simajuntak and Soedjono D, the basis of the process of someone behaving or acting is that the behavior is learned negatively, it can be said that if the criminal behavior is inherited, therefore no one is mechanically evil. Criminal behavior is learned in relationships or communication, which can be carried out verbally or through various body gestures with specific attitudes. The main component of criminal behavior is occupied in close social groups.¹³

For Romli Atmasasmita, there are two motivations or trigger factors for children to commit the crime of theft, namely intrinsic motivation and extrinsic motivation.¹⁴ Intrinsic motivation in child delinquency consists of:

a. *Intelligence Factor*

Intelligence is the intelligence of a person. Wundt and Eisler argue that intelligence is a person's ability to weigh and make decisions. These delinquent children usually hold less verbal intelligence and also lag behind in achieving school achievements. This lack of intelligence accompanied by blunt social insight makes them very easy to be provoked by bad persuasion to become evil delinquents.

b. *Age factor*

As stated by Stephen Hurwitz, "age is an important factor in the causation of crime" (age is the most important factor in the birth of crime), it can also be said that a person's age is an important factor that triggers the birth of delinquency. A number of research results have shown to what extent age is a vital issue in causing delinquency, including research results from the "Juvenile Delinquency" Project Team of the Faculty of Law, Padjadjaran University, which obtained a number of data that proved that during 1967 ±120 children with a maximum age of 18 were involved in criminal cases.

Property, one of which is theft. Especially in the Greater Jakarta area, the age of a child who acted in delinquency from 1963 to 1966 was at most 15 to 17 years old. Meanwhile, most of the crimes committed by them were theft, up to 355 of the 194 children who ended up in the Jakarta District Children's Court. Based on the results of the study, the actual age of a child who often acts naughty or commits a crime is between 15 to 18 years.

c. Gender Factor

Juvenile delinquency can be done by boys or girls, although in practice the number of boys who do delinquency is far superior to girls in a specific age limit. As a result of these gender differences, there are also differences, not only in terms of the number of delinquencies, but also in terms of the quality of delinquency. It is often broadcast by the mass media, both print and electronic, that many crimes are committed by boys, such as theft; persecution; robbery; murder; rape; and so forth. Meanwhile, most of the violations committed by girls, such as violations of public order; also violations of decency such as having sexual relations outside of marriage as a result of the spread of promiscuity.

d. Factors of the Position of Children in the Family

The position of the child in the family referred to here is the position of a child in the family based on the order of birth, such as the first child; second; etc. Glueck in his investigations in the United States gave results in the form of data showing that the most naughty children were the third and fourth children, namely out of 961 naughty children; 31.3% of them are third and fourth children; while 24.6% the fifth child; and the next position is only 18.8%. Even so, Noach's research on delinquency and crime in Indonesia shows different results, where the majority of delinquencies and crimes are actually carried out by the first child and/or only child or by daughter or she is the only one among several siblings (brothers and sisters).

The extrinsic motivation consists of:

a. Household Factor

Families play an important role in the development of children. A good family will have a positive impact on children's growth and development, and vice versa a bad family will have a negative influence. Therefore, it is appropriate for the family to be the trigger for the possibility of criminal acts being born, because from an early age children are raised by their families onwards, the majority of their time is in the family. As for what can lead to criminal acts, there are abnormal families, such as broken homes, as well as family conditions with an unfavorable number of members.

b. Education and School Factors

Schools act as a means or intermediary to foster children's souls, or you could say schools are also responsible for children's education, both scientifically and behaviorally. The spread of criminal acts committed by children, indirectly shows the education system in schools that is less successful.

c. Child's Intercourse Factor

Many children are influenced by various social pressures, all of which have a pressing and pressing impact on the formation of bad behavior, as a result these children become happy to disobey rules, social norms, and formal laws. The evilness of these children is the effect of psychological changes in response to external influences that suppress and urge their nature to carry out criminal acts.

d. Mass Media Factor

The mass media also has a great influence on the growth and development of children. The desire or desire embedded in children to carry out criminal acts sometimes arises due to the influence of reading, pictures and films. For children who fill their free time with bad reading, it will be dangerous and can prevent them from behaving positively. Likewise, the spectacle in the form of immoral images, will give sexual stimulation to the child, which will have a negative influence on the mental development of the child, and maybe the child wants to try the porn shown earlier. This desire to try can cause children to commit criminal acts in the form of: rape, sexual abuse and so on.

A number of factors that trigger children to commit criminal acts of theft in the city of Semarang include:

a. Internal factors

Internal factors that influence the child's delinquency are aspects of the personality that come from the child's internal, such as low self-esteem. Children who are involved in criminal cases are usually not good at socializing or adapting to close environmental conditions.

b. Environmental factor

The environment, namely home and school, is a place where children experience daily life, which also has an effect on the existence of children who commit crimes. Early schools should not be considered as

institutions that are required to educate their students to be successful, but schools must be judged based on the quality of their teaching. For this reason, a school environment that does not encourage students to learn, for example with monotonous classroom conditions; regulations that are not in line with teaching; inadequate practicum facilities; and so on, then families who are filled with violence, both between parents and against their children, have a real effect on the children. As they grow up, children learn that violence is a part of them, and it is natural for them to repeat violent acts. On the other hand, children who are very protected by their parents when they are teenagers will grow up to be individuals who are not independent and do not dare to develop their unique identity. Then when he met his friend, he totally surrendered himself to the group as a component of the identity he built.

c. Economic factors

This factor is one of the factors that children commit crimes, the economic condition of the family that is unable to meet all the needs of the child triggers the child to pursue the satisfaction of his needs from the outside environment. In this way, the family economy that is on the verge of poverty is very encouraging for children to commit criminal acts of theft. The pressure in social groups has a very big influence. This shows that when a number of children are involved in legal cases, be it theft; persecution; also violence, caused by the influence of his friends. The lack of parental supervision and the environment makes the child join his friend's invitation, plus opportunities come. Therefore, social groups and their playmates put a very strong pressure on children to commit criminal acts.

2. Application of Restorative Justice in the Settlement of Motorcycle Theft Crimes Perpetrated by Children

The restorative justice approach to resolving the crime of theft by minors is different from the implementation of punishment in general. Restorative justice is not explained in detail in the Law on the Juvenile Criminal Justice System, but in Article 8 paragraph (1) of Law no. 11 of 2012 concerning the Juvenile Criminal Justice System, it is explained that the diversion process is carried out through deliberation by involving parents/guardians; the victim and his/her parents/guardians; community advisor; and professional social workers on the basis of a restorative justice approach. The criminal justice process with its restorative nature assumes that creating justice is not only the job of the government as well as the perpetrators of crime, but also must provide full justice that cannot ignore the interests and rights of crime victims and the general public. On the other hand, the interests of victims in the conventional criminal justice process seem to have been represented or delegated by the State, Government, Attorney General's Office and Police. The question is how effective and representative the Government is in representing the interests of crime victims in an integral way. A large mirror is needed to examine the "needs and roles" completely and clearly. That is, restorative justice compiles a chart regarding the interests and roles of each party, both victims; perpetrator; as well as the community concerned, as a result there is a basis for channeling the responsibilities arising from crimes, relevant to their respective positions and roles so that quality justice can be realized.

Based on the observation of restorative justice, 60% of criminal cases in the Netherlands that are in the power of the Prosecutor are ended through the settlement of cases out of court (afdoening buiten proces/settlement out of judiciary) or arguably the Dutch courts have applied restorative justice. Meanwhile, in Indonesia, which understands the principle of legality, the Penitentiary is increasingly crowded due to the large number of "little people" criminal cases being brought to court. In fact, the provision of imprisonment does not necessarily have a deterrent effect and is even predicted to be a negative lesson for inmates, as in the adage "too short for rehabilitation, too long for corruption" (in prison it is too short for recovery and too long for decay). Then in Norway, the number of criminal cases that were not transferred to court reached 74%.¹⁵The basic substance of Law no. 11 of 2012 is a strict regulation related to Restorative Justice and Diversion which is intended to prevent and prevent children from the judicial process so that regardless of the child's bad name, it is hoped that the child can return to the community as usual. The definition of diversion is contained in Article 1 point 7 of Law no. 11 of 2012, namely changing the settlement of children's cases from the criminal justice process to a process outside the criminal justice system, and

through Article 5 paragraph (3) of Law no. 11 of 2012 stipulates that diversion is required in the Child SPP. The diversion step is carried out in each stage of the Child SPP, starting from the investigation; prosecution; examination in court; as well as the implementation stage of court decisions. The implementation of restorative justice in the settlement of children's crimes is a legal, clear and firm order based on Law no. 11 of 2012 concerning the Juvenile Criminal Justice System. This law considers, among other things, children are a mandate and gift from God Almighty who holds the dignity and worth as a whole human being. In order to maintain this dignity, children are entitled to exclusive protection, especially legal protection in the judicial system.

Indonesia as a state in the Convention on the Rights of the Child, which regulates the concept of legal protection for children, has an obligation to provide special protection to children who are in contact with the law. This matter is intended to ward off the bad effects of the current criminal justice system on a number of cases committed by children. A number of comments related to the criminal justice system, such as that expressed by David Rothman, that the process of convict rehabilitation (social reintegration) is a glorified lie. Rothman's spark came after he saw the reality that prison seems to isolate criminals from a normal lifestyle, as a result he will not be ready to live on the right path if he is released. The crimes that are tackled by the Indonesian Criminal Justice System almost always end in prison. This is proof that prison is not the best solution to solve the problem of crime, especially crimes where the "damage" caused by the crime can still be reformed so that the "damaged" condition can return to normal.¹⁶ Muladi is of the view that the Juvenile Justice System should make the Balance Approach more efficient, which is able to meet the people's desires in order to: a). Punishment based on accountability measures that seek to repatriate victims' losses for criminal acts committed by the perpetrator as a consequence of their actions; b). Rehabilitation and reintegration of criminals; then c). Strengthen public safety and security. Obviously, this is an articulation step that links the main interests of the three customers (clients / customers) in the criminal justice system, namely victims, perpetrators of crimes, as well as the community. This balanced approach at the same time prioritizes a number of values that are connected to each client, namely: the value of accountability for victims and the community to be fulfilled; the value of competency development for actors, in this case children, who after going through the restorative process are expected to be more able to blend in with society than before; also the value of community protection, because the restorative justice system is responsible for protecting the community from criminal acts by children through peaceful means (peacefully resolved).¹⁷

Crimes committed by children at the Semarang Police, are resolved through a restorative justice approach, in which the legal settlement process is carried out by presenting the victim and the perpetrator/suspect sitting in a meeting together to discuss together. Restorative justice approach method, the police act as a mediator; facilitator; as well as supervisors, where the police in this case show a number of articles and provisions of the juvenile justice law, then invite the public to find the best solution so that the process of repair, restoration of relations, conciliation and reconciliation between victims and perpetrators, as well as families of victims and families of the perpetrators, takes place. together with the re-acceptance of the community towards the perpetrators without being accompanied by any bad label on the perpetrators. Semarang Police Investigators have carried out the investigation process into a number of cases where the perpetrators were minors by organizing restorative justice efforts through diversion of children involved in criminal cases, relevant to Law no. 11 of 2012 concerning the juvenile criminal justice system. According to the results of a reconciliation study conducted at the Semarang Police with a restorative justice approach, the mediation process is in line with the customary deliberation. The implementation of the principle of restorative justice at the Semarang Police Station by the police is by mediating the victim with the perpetrator, family group discussions that benefit the victim and the perpetrator, where those involved in the settlement process are the victim and the perpetrator and a third party, the police, who becomes the mediator

and facilitator to bridge the gap. between the parties. The goal to be achieved by agreement and through a deliberation process is the recovery of all losses and injuries caused by incidents of child crime.

The police as the holder of diversion rights are responsible for deciding the policy mechanism used to implement diversion. There are 3 forms of the draft diversion policy method by the police, namely:

a. The police involved in this process are the police and the children (perpetrators). The types of crimes that can be tackled through this method are generally crimes in the form of delinquency and minor crimes. These crimes include both inside and outside the Criminal Code. The police can also summon children suspected of committing a crime for questioning if the police know that a crime has occurred, either directly (arrested) or through reports or complaints from victims or the public.

b. The family meetings of the parties involved in the diversion process are the police, perpetrators and/or parents/guardians, and community advisors. The types of crimes that can be resolved through this mechanism are petty crimes, crimes without sacrifice and crimes whose loss value is not more than the local UMP value.

c. In the community meeting, the parties involved in this process are the police, the perpetrators and/or their parents/guardians, the victims and/or their parents/guardians, community advisors and the community (community leaders or from the school). The type of crime that can be resolved through community deliberation is a criminal offense that carries a penalty of less than 7 (seven) years and is not a repetition of a crime.

3. Obstacles in the Settlement of Criminal Cases of Motorcycle Theft by Children Through Restorative Justice

The implementation of restorative justice in overcoming child crime in the jurisdiction of the Semarang Police, in this case in the form of conceptual diversion, would be more appropriate for law enforcement and peaceful sanctions against children who commit crimes. However, the idea of triage and restorative justice practices is not easy to apply in the juvenile criminal justice system in Indonesia. Efforts by police investigators to apply the principle of restorative justice in dealing with crimes committed by children at the Semarang Police have not been effectively implemented. Judging from the stages that police investigators have gone through in resolving child crime cases, it can be said that all of them have not been successful. Because police investigators encountered obstacles. The Semarang Police also does not use its discretion to handle cases of children. The reason the police do not use their discretion to the fullest is because there are several cases of children that they have to refer to the prosecutor's office, such as rape and drug cases. At the same time, diversion is usually carried out for minor crimes such as assault and theft. Therefore, it is hoped that this provision will also provide a sense of justice for the victims and perpetrators of criminal acts. In addition, it can speed up the process of resolving cases, because cases cannot be brought to prosecution if the diversion process is successful in reaching an agreement between the parties.

From the explanation above, the writer can conclude that the obstacles experienced by the diversion facilitator, namely the Semarang Police investigators in the application of restorative justice as a handling of child crimes, include the behavior of the victim's family who feel that restorative justice cannot represent responsibility for children who are in conflict with the law and children will be separated from their actions. responsibility for his behavior. These obstacles also occur due to factors from the community who do not understand the awareness of law enforcement.

IV. CONCLUSION

Based on the discussion, it can be concluded that:

a. The factors that cause children to commit the crime of theft include internal factors (personality), environmental factors and economic factors.

b. The implementation of restorative justice in handling the crime of theft of children's motorbikes is in accordance with the Implementation of the Diversion Child Criminal Justice System Law Number 11 of 2012. In implementing restorative/diversion justice, there are always efforts for every child who commits a crime. In some cases, diversion can be carried out with the consent of all parties, so that the case does not reach the prosecution level. Restorative justice only applies to petty crimes, with mediation through

deliberation. The application of restorative justice has not been effective, because there are still people who fail to implement the purpose of diversion in the investigation of criminal cases of theft of children's motorcycles, especially the police have not implemented the purpose of restorative justice. Everything from the number of children who steal motorcycles.

c. Obstacles in overcoming the crime of motorcycle theft committed by children through restorative justice are differences in perceptions regarding the meaning of justice by restorative justice actors and the existence of an incosystem in the implementation of regulations, especially those regulated in article 7 paragraph (2) of law number 11 of 2012 concerning the system. juvenile criminal justice. Investigators with behavior to overcome problems related to children, be it minor crimes or serious or serious crimes. So that there is not the slightest gap that police investigators have problems with the procedure for implementing the principles of restorative justice in the settlement of crimes committed by children in the jurisdiction of the Semarang Police.

REFERENCES

- [1] Asgart, S. M., dkk, (2011). Keadilan Restoratif Bagi Anak Berhadapan Dengan Hukum (Kasus Jakarta, Surabaya, Denpasar dan Medan). Laporan Penelitian Yayasan Lembaga Bantuan Hukum Indonesia.
- [2] Faridarta, R. (2001) Mencari Jejak Keadilan. Yogyakarta: Kanisius.
- [3] Hamzah, A. (2013). Beberapa Hal Dalam Rancangan KUHAP. Paper Presented in a National Seminar Organized by the Indonesian Advocad Association at the Ballroom of Grand Clarion Hotel Makasar on October 24, 2013.
- [4] Handayani, D. (2014). Faktor-Faktor Penyebab Anak Melakukan Pencurian Di Wilayah Hukum Kabupaten Pontianak Ditinjau Dari Sudut Kriminologi. *E-Jurnal Gloria Yuris Prodi Ilmu Hukum (Jurnal Mahasiswa SI Fakultas Hukum)* Universitas Tanjungpura, Volume 02 Nomor 03.
- [5] Kanter, E.Y dan Sianturi, S.R. (2002). Asas-asas Hukum Pidana di Indonesia dan Penerapannya. Jakarta: Storia Grafika.
- [6] Lamintang, PAF. (2013). Pembahasan KUHAP Menurut Ilmu Pengetahuan Hukum Pidana dan Yurisprudensi. Jakarta: Sinar Grafika.
- [7] Marlina. (2009). Peradilan Pidana anak di Indonesia-Pengembangan Konsep Diversi dan Restorative Justice. Bandung: PT Refika Aditama.
- [8] Moeljatno. (2008). Asas-Asas Hukum Pidana. Jakarta: Rineka Cipta.
- [9] Muladi, (2013). Restorative Justice Dalam Sistem Peradilan Pidana Dan Implementasinya Dalam Penyelesaian Tindak Pidana Yang Dilakukan Oleh Anak-Anak. Paper Presented in FGD – BPHN Date. 26 August 2013.
- [10] Prasetyo, T. (2014). Hukum Pidana. Jakarta: Raja Grafindo Persada.
- [11] Prayitno, K. P. (2012). Aplikasi Konsep Restorative Justice dalam Peradilan Indonesia. Yogyakarta: Genta Publishing.
- [12] Priyono, E. A. (2018). Aspek Keadilan Dalam Kontrak Bisnis Di Indonesia (Kajian pada Perjanjian Waralaba). *Jurnal Law Reform*, No. 1, Vol.14.
- [13] Rolando V. Del Carmen and Chald R. Trulson,. (2006) Juvenile Justice: The System, Process and Law. Thomson: Wadsworth.
- [14] Soekanto, S. & Mamudji, S. (2004) Penelitian Hukum Normatif Suatu Tinjauan Singkat. (Jakarta: PT. Raja Grafindo Persada.
- [15] Soetodjo, W. (2008). Hukum Pidana Anak. Bandung: PT. Pefika Aditama.
- [16] Sumaryono. (1985). Kejahatan Anak Suatu Tinjauan Dari Psikologi dan Hukum. Yogyakarta: Penerbit Liberty.
- [17] Sumitro, R. H. (1990) Metodologi Penelitian Hukum dan Jurimetri. Jakarta: Ghalia Indonesia.
- [18] Undang-Undang Nomor 01 Tahun 1946 Tentang Kitab Undang-Undang Hukum Pidana.