

# Implementation Of Laws On The Criminal Jurisdiction System Using A Restorative Justice Approach (A Case Study at 'Aisyiyah Legal Aid Institute, Central Java)

**Zaenal Aripin**

Universitas Muhammadiyah Surakarta  
zaenallaripinnn@gmail.com

DOI: 10.23917/laj.v5i2.11267

---

Submission

Track:

Received:

24 June 2020

Final Revision:

29 September 2020

Available online:

30 October 2020

Corresponding

Author:

**Zaenal Aripin**

zaenallaripinnn@gmail.com

## ABSTRACT

*This article aims to determine the implementation of the juvenile criminal justice system law in upholding child criminal law in Surakarta, explain the process of assistance for victims and child offenders who are dealing with the law with a restorative justice approach in the form of diversion, and explain the obstacles found 'Aisyiyah Legal Aid Institute, Central Java (LBH 'Aisyiyah) in law enforcement which acts as a child crime in Surakarta. This study uses an empirical approach. This research was conducted by examining primary data in the field, namely LBH 'Aisyiyah Central Java in the form of facts about the results of research directly at the research location and the results of interviews with members of advocacy organizations at LBH 'Aisyiyah, Central Java and in the Legal and Human Rights Council of Aisyiyah Regional Leaders. Central Java and secondary data. The results showed that based on the results of the study in 10 criminal cases committed by children who were resolved by diversion in Surakarta, they had fulfilled and were in accordance with the Articles regulating diversion in the Juvenile Criminal Justice System Law. Whereas the concept of diversion has been running in Surakarta with many determinations of the results of a diversion agreement between the families of the victims and the families of the perpetrators and also Legal Aid or related Non-Governmental Organization for crimes committed by minors. So that the application of the Law on Juvenile Criminal Justice System in law enforcement of child criminal acts has been running quite effectively.*

**Keywords:** *Juvenile Criminal Justice System Law, diversion, restorative justice.*

---

## INTRODUCTION

For several decades, the problems of children, both as perpetrators and victims, received less attention from the government. As a criminal, the government then formulated policies that provide child protection, so that in 2002 the government passed Law no. 11 of 2012 concerning the Juvenile Criminal Justice System.

The policies for the implementation of the criminal justice system for children who are in conflict with the law or have committed criminal acts are interrelated with the purpose of protecting children, namely in relation to emphasizing the objectives of improving, rehabilitating and providing guidance in order to achieve welfare for the child offender. By emphasizing the element of child protection, as mentioned by Sudarto, criminal investigation activities carried out by law enforcement officials, namely police, prosecutors, judges and other officials, are based on the interests of children by balancing also the interests of the community.

Currently the application of the juvenile criminal justice system tends to be impartial to children, this is in line with the increase in the number of crimes committed by children, and the many judges' considerations in the decisions that imprison children offenders. Currently the application of the juvenile criminal justice system tends to be impartial to children, this is in line with the increase in the number of crimes committed by children, and the many judges' considerations in the decisions that imprison children offenders. Based on research, the policy of imprisonment for children in conflict with the law (delinquency) shows a tendency to be detrimental to the mental development of children in the future. This tendency to be detrimental is the result of the effect of criminal punishment in the form of stigma (Hadisuprpto, 2003).

The term juvenile justice system is a translation of the term The Juvenile Justice System, which is a term used to mean a number of institutions that are members of the court, including the police, public prosecutors and legal advisors, supervisory institutions, child detention centers, and child development facilities. In the juvenile criminal justice system, there are activities to investigate and terminate cases involving the interests of the child, namely all activities carried out by the police, prosecutors, judges and other officials, must be based on a principle, namely for the welfare of the child and the interests of the child. (Wahyudi, 2009).

Even though there have been many regulations that favor children, it is undeniable that cases of children dealing with the law are increasing. This is also shown from the data on handling child cases.

Based on the data above relating to the implementation of detention of children who are involved in child criminal acts, if it is related to the political law expected by the makers of the Juvenile Court Law, that detention of children is carried out after taking into account the interests of the child in such a way, is like grilling away from the fire (Angger dan Fuady. 2015). The purpose of child protection as stipulated in Article 45 paragraph (1) of the Juvenile Court Law which states that, "Detention is carried out seriously considering the interests of the child and / or the interests of the community" and legal politics as outlined in the will of Article 16 paragraph (3) of the Child Protection Law and the Human Rights Law (Law No. 39 of 1999) which states that, "The arrest, detention or imprisonment of children is only carried out if it is in accordance with the prevailing laws and can only be done as a last effort)."

Likewise in Presidential Decree No. 36 of 1990 concerning the ratification of the Convention on the Rights of the Child in Indonesia, it has been affirmed that the arrest, detention or imprisonment of children, will be carried out according to law and applied only as a last step and for the shortest possible period. In practice, these wills cannot be implemented. It seems that the will to progressively enforce the implementation of juvenile criminal law still requires a lot of struggle. It is pointed out that the accumulation of detention status is often related to the practice of buying and selling cases that occur not only in the courtroom, but also after the trial ends. (Wahyudi, *Op. Cit.*, p. 36).

The criminal justice process is a juridical process that is clearly regulated in law, where law enforcement is carried out by taking into account the freedom to express opinions by making decisions based on certain beliefs. In this case the rights of children should also be considered in the handling of cases related to children, especially those relating to legal protection of children which includes broader aspects. (Soetodjo, 2010).

Since the enactment of the Law on the Juvenile Justice System, legal settlement for children in conflict with the law has increasingly prioritized the values of justice, welfare, and upholding the protection of human rights for children. The nuances of

restorative justice (Afif, 2015), as mandated in this law are a content that really brings fresh air in the context of solving criminal acts. So that the settlement no longer aims for mere retribution but more emphasis on restoring it to its original state.

One of the reforms regulated in Law no. 11 of 2012 concerning the Juvenile Criminal Justice System is a provision regarding diversion which is a diversion of settlement of juvenile cases from the criminal justice process to the settlement process outside the criminal court.

Fair settlement which is packaged in the form of restorative justice is then manifested in the form of transfer of case settlement that goes off the track of the criminal justice system which is then known as diversion. Diversion is a basic idea to eliminate the negative impact of the criminal justice system which always produces a negative stigma which then labels children according to the actions that have occurred to them. (Wahyudi, 2011).

The basic idea of diversion was initiated by *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (SMRJJ)* otherwise known as The Beijing Rules (Pramukti & Primaharsya, 2015). Diversion is a diversion of the handling of cases of children who are suspected of having committed a criminal offense from the formal process with or without conditions. The diversion approach can be applied to the resolution of cases of children in conflict with the law. According to Article 1 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, diversion is the transfer of settlement of juvenile cases from the criminal justice process to processes outside the criminal court. Diversion is carried out to provide protection and rehabilitation to perpetrators in an effort to prevent children from becoming adult criminals (Widodo, 2017).

An important note in resolving later diversions is that diversion is not always successful. Diversion can only be pursued and offered to the parties based on an agreement and the fulfillment of the conditions for diversion. Successful diversion has the consequence that the parties must carry out the decision voluntarily and sincerely in accordance with the points of the agreement set out in the form of a decision issued by the Chairman of the local District Court. If the agreement and conditions for diversion are not fulfilled, the case will be returned and will be formally processed (Astuti, 2017).

The substances regulated in the Juvenile Criminal Justice System Law include the placement of children who undergo judicial processes to be placed in the Special Development Institution for Children. The most basic substance in this law is strict regulation regarding Restorative Justice and Diversion which is intended to avoid and keep children away from the judicial process so as to avoid stigmatizing children who are in conflict with the law and it is hoped that children can return to the social environment naturally.

In the judiciary, the law regulates the procedures for adjudicating juvenile cases, from investigation to execution. According to the implementation of the law carried out by the Law and Human Rights Council, the Regional Leadership of 'Aisyiyah, Central Java, with the application of this law, has experienced many problems with very varied backgrounds. Starting from a very long level of investigation even though the law has set the minimum and maximum limits for handling it. Problems that also occur during execution are between law enforcers and related agencies who do not have a mutual perspective on children and facilities and infrastructure that are not child-friendly.

Based on this, the problems that will be examined in this research are the implementation of the law on the juvenile justice system in upholding child criminal law in Surakarta, the process of assisting children victims and offenders who are dealing with the law with a restorative justice approach in the form of diversion. and the obstacles found by LBH 'Aisyiyah of Central Java in law enforcement regarding child crimes in Surakarta.

## **METHOD**

In this study the authors used an empirical approach. Empirical legal research is a type of legal research that is carried out by examining the workings of law in society and then analyzing it based on legal facts and normative regulations contained in legislation (Salim dan Erlies, 2013). Soerjono Soekanto and Sri Mamuji explained further about the definition of empirical legal research or what is also known as sociological legal research, namely legal research carried out by studying or conducting research on primary data, namely data in the field (Soekanto dan Mamuji, 2010). Primary data is data that comes from the community and / or people who are directly involved in the problem being studied (Salim and Erlies, *Op. Cit.*, pg. 20). This

research was conducted by examining primary data in the field, namely LBH 'Aisyiyah Central Java related to the application of the juvenile criminal justice system law with a restorative justice approach (a case study at LBH 'Aisyiyah Central Java). This type of research the writer uses in this research is descriptive research (Soekanto, 2005). In this study the authors took the location at LBH 'Aisyiyah Central Java and the Law and Human Rights Council for Regional Leaders' of 'Aisyiyah, Central Java.

The data presented is from data sources which include primary data, namely data obtained in the form of facts about the results of research directly at the research location and the results of interviews with members of advocacy organizations at LBH 'Aisyiyah, Central Java and at the Legal and Human Rights Council for Regional Leaders' of 'Aisyiyah, Central Java and secondary data (Khudzaifah Dimiyati and Kelik Wardiono, 2015). This research was conducted using the literature study method using documented materials supported by document study. In addition, this research is also supported by field studies conducted by conducting interview techniques related to parties related to the problems being solved related to the application of the juvenile justice system law with a restorative justice approach (a case study at LBH 'Aisyiyah, Central Java). The data analysis in this study was studied qualitatively in the form of words or sentences, which was carried out using deductive logic (Ibrahim, 2006).

## **RESULTS AND DISCUSSION**

### **1. Implementation of the Juvenile Criminal Jusctice System Law in Upholding the Child Crime Law in Surakarta**

Child delinquency or deviant behavior committed by children, based on the concept of the purpose of punishment against children, is not seen as merely a manifestation of behavioral deviations, but must also be seen as an impact of the imbalance of the social environment around the child. So it is not right if the purpose of criminalizing children is equated with the purpose of criminalizing adults. From the doctrine of jurists both to the theory of retaliation/absolute and relative/purpose/utilitarian theory, the imposition of punishment is generally seen as symptomatic treatment, and not causative (casuistic) which is personal and not functional (Sambas, 2010).

The purpose of imposing crimes against children should be in the form of legal protection by prioritizing children's interests, so that children's welfare can be achieved. So that the welfare of children cannot be separated from the premise of handling children as an integral part of social welfare (*Ibid.*, pg. 26). In addition, the presence of the Child Criminal Justice System Law can provide more protection for children's rights against diversion efforts as part of the restorative justice policy in solving juvenile criminal cases.

Since the enactment of the Law on the Juvenile Justice System, legal settlement of children in conflict with the law has increasingly prioritized the values of justice, welfare, and upholding the protection of human rights for children. Nuances of restorative justice (Afthonul Afif, *Op.Cit*, pg. 328), as mandated in the law is a content that really brings fresh air in the context of criminal action settlement. So that the settlement no longer aims for mere retribution but more emphasis on restoring it to its original state.

Fair settlement which is packaged in the form of restorative justice is then manifested in the form of transfer of case settlement that goes off the track of the criminal justice system which is then known as diversion. Diversion is a basic idea to eliminate the negative impact of the criminal justice system which always produces a negative stigma which then labels children according to the actions that have occurred to them. (Wahyudi, 2011). Diversion is a diversion of the handling of cases of children who are suspected of having committed a criminal offense from the formal process with or without conditions. The diversion approach can be applied to the resolution of cases of children in conflict with the law. According to Article 1 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, diversion is the transfer of settlement of juvenile cases from the criminal justice process to processes outside the criminal court. Diversion is carried out to provide protection and rehabilitation to perpetrators in an effort to prevent children from becoming adult criminals (Widodo, 2017).

It is explained in Article 6 of the Juvenile Criminal Justice System Law, that the concept of diversion aims at achieving peace between victims and children with a settlement outside the judicial process, by preventing children from being deprived of freedom. It is explained in Article 7 paragraph (1) that at the level of investigation, prosecution and examination of cases of children in PN, it is obligatory to seek

diversion, which is carried out in a criminal act with the threat of imprisonment under 7 years and does not constitute a repetition of a criminal act. The diversion process is explained in Article 8 of the Juvenile Criminal Justice System Law, that the diversion process is carried out through deliberation by involving children and parents / guardians, victims and / or parents / guardians, community counselors, and professional social workers based on a restorative justice approach. In addition, the community and social welfare workers are also involved in the deliberation process.

In Article 9 it is explained that, in conducting Diversion, Investigators, Public Prosecutors and Judges must consider: categories of criminal acts; age of the child; the results of community research from Bapas; and support the family and community environment. In addition, the Diversion Agreement must obtain the consent of the victim and / or the family of the child victim and the willingness of the child and his family, except for: a. a criminal act in the form of a violation; b. minor crime; c. a crime without victim; or d. the value of the victim's loss is not more than the value of the local provincial minimum wage. It is explained later in Article 10 that the Diversion Agreement to settle criminal acts in the form of violations, minor crimes, criminal acts without victims, or the value of the victim's loss is not more than the value of the local provincial minimum wage can be carried out by the investigator with the perpetrator and / or their family, the supervisor. Community, and can involve community leaders.

The Diversion Agreement made by the Investigator on the recommendation of the Community Advisor can take the form of: restitution of losses in the event of a victim; medical and psychosocial rehabilitation; return to the parent / guardian; participation in education or training in educational institutions or LPKS no later than 3 (three) months; or community service for a maximum of 3 (three) months.

It is explained in Article 11 that the results of the Diversion agreement can take the form of, among others: peace with or without compensation; return to the parent / guardian; participation in education or training in educational institutions or LPKS no later than 3 (three) months; or community service. It is explained in Article 12 that the result of the agreement is stated in the form of a Diversion agreement. The results of the Diversion agreement are submitted by the direct supervisor of the responsible official at each level of examination to the district court in accordance with their jurisdiction within 3 (three) days from the time the agreement is reached to obtain a ruling. The



determination is made within 3 (three) days from the receipt of the Diversion agreement. Determination is conveyed to the social adviser, investigator, public prosecutor or judge within 3 (three) days from the date of stipulation. After receiving an order, the investigator issues a termination order or the public prosecutor issues a termination order.

Article 13 explains that the juvenile criminal justice process is continued in terms of: a. the Diversion process does not result in an agreement; or b. Diversion agreements are not implemented. Supervision of the Diversion process and the implementation of the resulting agreements rests with the direct supervisor of the responsible official at each level of the examination. During the Diversion process until the Diversion agreement is implemented, the Community Advisor is obliged to provide assistance, guidance and supervision. In the event that the Diversion agreement is not implemented within the stipulated time, the Community Advisor immediately reports it to the responsible official. The responsible official is obliged to follow up the report within 7 (seven) days.

## **2. Assistance Process for Victims and Child Offenders in Confronting the Law with a Restorative Justice Approach in the Form of Diversion**

In the Juvenile Criminal Justice System Law, it is explained that the juvenile criminal justice system is the entire process of solving cases of children who are faced with the law, starting from the investigation stage to the guidance stage after serving a crime (Article 1 number 1 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System). While the concept of diversion as regulated in Article 5 paragraph 1 of the Juvenile Criminal Justice System Law, is a manifestation and real implementation of restorative justice known in Volkgeist Indonesia which is based on the Pancasila Legal System. (Sinaga, *Op.Cit.*, pg. 31). As stated in Article 5 paragraph 3 of the Juvenile Criminal Justice System Law, that the Juvenile Criminal Justice System is a series of processes that include: (a) child criminal investigations and prosecutions are carried out in accordance with the provisions of laws and regulations, unless otherwise stipulated in the law; (b) Juvenile trials conducted by courts within the general court; as

referred to in paragraph (2) letters (a) and (b) of the Juvenile Criminal Justice System Law that must be attempted to be diversified.

Based on this, it can be concluded that Juvenile Criminal Justice System is part of the criminal justice system which is obliged to prioritize a restorative justice approach. With the word "mandatory" in the formulation of the Juvenile Criminal Justice System Law above, it can be concluded that in the settlement of other criminal cases it is also possible to use a restorative approach that has become Indonesia's *volkgeist* (national soul) based on the Pancasila legal system. (*Ibid.*, pg. 32).

In some cases the diversion above can be analyzed based on the Juvenile Criminal Justice System Law as follows (names of perpetrators and victims are written in the initials):

In the **case of AAL**, in the case of a criminal act of theft with a weighting, diversion attempts were made at the Sukoharjo District Court, which was later issued Decision Number: 02/Pid.Sus-Anak/2017/PN.Skh as a result of a diversion agreement. Whereas in the implementation of the diversion, in Article 2, a confession was obtained from party I who had done something wrong and regretted the act committed by party II. In addition, in Article 4 compensation of 3 million rupiah has been submitted from party I to party II. This shows that diversion efforts carried out outside the court have shown positive results for the restoration of children's rights without having to go through penal measures by repenting for actions and paying compensation.

In the **case of MAS**, who was still 14 years old, in a criminal case of abuse against a child which was then resolved by way of diversion which was then stipulated in the agreement between the child's family between the reported party and the reporting party. The victim here is also 16 years old, then from the reported party compensated the victim in the form of medical expenses of IDR 1.500.000 to the victim. Then from the results of the diversion, an agreement was also obtained for the reported party to perform the maghrib call to prayer at the nearest mosque followed by the supervision of local community leaders for 3 months.

In the **case of DDH**, who was a 16 year old student who was later resolved through diversion in a case of alleged crime of taking away an underage girl. In the agreement made during the diversion process, several agreements were obtained, including that the parents of the reported party then provided compassionate assistance

of IDR 5.000.000 to the victim, in this case the reported party also promised not to repeat his actions either to the victim or other parties. In addition, an agreement was also reached that the reported party agreed to perform daily congregational prayers at the Barokah Mosque under the supervision of related figures. With these agreements, the reported party, investigators, community counselors and professional social workers must cooperate in implementing the agreements that have been made.

In the **case of ADS**, with an educational background as a busker and not graduating from elementary school in a criminal case of obscenity against minors committed on 19 June 2016 which was then resolved by way of diversion which basically contained a peace agreement between the parties concerned. Diversion was carried out at the Surakarta Police Office. The reported party, which is none other than ADS, is only 12 years old. In the successful diversion agreement, it was mutually agreed that in this case the child apologized to the reporting party and then promised not to repeat his actions either to the victim or his family. Then the children are also included in the treatment program at the LPKS which is none other than the Antasena Magelang Children's Marsudi Social Home which will then be continued at PKBM Sinar Mentari Semanggi Surakarta. The diversion agreement that was successfully made was based on a mutual agreement between the reported party, the reporting party, the investigator, the correctional center for social counseling, Surakarta City Social Service, Kakak Surakarta Foundation, Atma Surakarta Foundation, PPT Semanggi Surakarta, and PKBM Sinar Mentari Semanggi Surakarta.

The case of **MH**, who is a 2<sup>nd</sup> grade of high school student, who lives in Surakarta, was based on the minutes of the diversion agreement where the diversion process was carried out by deliberation at the Surakarta Police Office, in this case **DA** victim who was also 3<sup>rd</sup> grade of junior high school and **SBP** student attended is still 14 years old. The child is accompanied by parents, namely **MH** 16 years old, **KCS** 16 years old, in a criminal case of theft of Article 362 of the Criminal Code. It was agreed on the matters in the diversion agreement where the child apologized to the victim and promised not to repeat his actions, and with the supervision of community leaders for 3 months conducting worship at the mosque and at the church. Not only related parties, the investigators, social advisers, the Surakarta education and sports office, Islamic religious extension workers, social service workers, Surakarta community

empowerment agency, and also counseling guidance teachers at Public High School 5 Surakarta also have the obligation to carry out the agreements that have been made.

The case of **VY**, who is still a 17-year-old junior high school student and **RTA**, 15-year-old junior high school student, was based on diversion in the determination of the Surakarta District Court which was approved by both the reported party, the reporting party, and the social adviser during a deliberation that was held at the Surakarta Police Office which was attended by the victim / the reporter and the party reported in the criminal act of molestation of minors. In the diversion agreement it was agreed that the reported party apologized to the victim and promised not to repeat his actions. The reported party gave compassion for 4 million rupiah. The diversion agreement was attended by both investigators, social advisers, dissosnakertrans, PT.PAS Surakarta, and also the Central Java PWA Law and Human Rights Council. The result of the agreement contains a recommendation that the child be returned to his parents for good supervision and education.

The case of **MNP** for Senior High School Equivalency and **IP** for junior high school students, with the reporting party, the parents of the victim have made a diversion agreement in the case of beatings that violates the formulation of Article 80 of Law No. 35 of 2014 or Article 170 paragraph (1) of the Criminal Code which is carried out by deliberation with the reported party reimbursing the medical costs of IDR 2.500.000 to the victim. In the alleged criminal act of committing violence against children in public, the reported party requests that the perpetrator be handed back to his parents or guardians and the prosecution is stopped. And it was agreed that the reported party promised not to repeat his actions and the parents of the reported party were able to supervise the perpetrators. Based on the ruling, the Surakarta District Court ordered the reported party, reporter, investigator, community counselor as well as the Law and Human Rights Council Aisyiyah to implement the agreement.

The case of **ORP** who was 17 years old lived in Sukoharjo, graduated from 2<sup>nd</sup> grade of Junior High School and **CDS** was 17 years old, a 2<sup>nd</sup> Grade student of Vocational High School where the case was resolved by way of diversion in the Surakarta District Court Determination. Based on the minutes of the diversion agreement which basically contains a recommendation that the child be returned to both parents in order to get good supervision and education. In appointing the Surakarta

District Court, the reporting party, the reported party, the parents of the reported, investigators from the Surakarta Police, the social adviser from the Surakarta Correctional Center office were instructed to carry out the agreements that were made.

The cases of **FAD**, **DA** and **NMNF**. The victim **FD** was a 19 year old, a student college. The perpetrators were **FAD**, 15 years old, last education was 5<sup>th</sup> grade of Elementary School, **DA**, 16 years old, last education was 2<sup>nd</sup> grade of Junior High School, and **NMNF**, 17 years old, student. In the case of alleged theft of a *Honda Supra* motorcycle, in 2009, black color, police number S-6929-XI, frame number MH1JB91179K709451, engine number JB1E1706627 in the name of SUN as formulated in Article 362 of the Criminal Code. The result of the diversion agreement was that the perpetrator / reporter / child regretted the action he had committed then apologized to the reporter / victim and promised not to repeat his actions. Based on the recommendation of BAPAS, it was agreed that the children attend education or training at educational institutions / LPKS YPAN Bina Putera Surakarta for a maximum of 3 months with parental supervision.

The **KMAU** case in this case "**KMAU**", who is 15 years old, XI grade of Junior High School, where he lives in Sukoharjo, has undergone a diversion attempt by holding a deliberation meeting at the Surakarta Police, with the victim Aulia Adinda, a junior high school student, in a criminal case anyone who violates the provisions referred to in Article 76C (every person is prohibited from placing, allowing, committing, ordering or participating in violence against children) which occurred on Monday, March 13, 2017 at approximately 11.30 am, in front of Public Junior High School 13 Surakarta. The result of the diversion agreement was that the child apologized to the victim by providing compassion as a substitute for medical expenses to the victim. Based on the results of the diversion, it contains recommendations for the perpetrator to be handed back to both parents to get good supervision and education as in the BAPAS Research Report and orders the reported party, the reporting party, investigators, social advisers from the Surakarta Bapas office, dissosnakertrans, PT PAS Surakarta , The Central Java PWA Law and Human Rights Council and the reporting party in implementing the agreement.

### **3. Obstacles Found by LBH 'Aisyah Central Java in Upholding the Child Crime Law in Surakarta**

Law enforcement efforts mean that there is an effort to ensure that the existence of laws recognized in society can be enforced. According to Rudi Hartono, that the balance in society that has been disturbed (due to not implementing or violating a legal rule) must be restored to its original state for the purpose of creating an orderly, peaceful and safe atmosphere which is a guarantee for human survival. Therefore, in order for human protection to be protected (*justiabelen*), the law must be enforced even if the sky falls, either in normal or peaceful conditions, or when there is a law violation. (Chandra, 2014).

Based on the factors that can influence law enforcement above, related to the obstacles found by LBH 'Aisyiyah Central Java and Atma Legal Aid Institute (LBH Atma) in enforcing the law on child crimes in Surakarta, there are no difficult obstacles in the application of the Juvenile Criminal Justice System Law itself. Whereas the concept of diversion has been running in Surakarta with many determinations of the results of a diversion agreement between the families of the victims and the families of the perpetrators and also Legal Aid or related NGOs (Non-Governmental Organizations) for crimes committed by minors. So that the application of the Law on Juvenile Criminal Justice System in law enforcement of child criminal acts has been running quite effectively.

## CONCLUSION

The diversion process in the Juvenile Criminal Justice System Law Number 11 of 2012 is described in Article 6- Article 15. During the Diversion process until the Diversion agreement is implemented, the Community Advisor is obliged to provide assistance, guidance and supervision. In the event that the Diversion agreement is not implemented within the stipulated time, the Community Advisor immediately reports it to the responsible official. The responsible official is obliged to follow up the report within 7 (seven) days.

Assistance for Victims and Child Offenders in Confronting the Law with the Restorative Justice Approach in the Form of Diversion. Based on the results of the research, in the 10 cases above, it has fulfilled and is in accordance with the Articles governing diversion in the Juvenile Criminal Justice System Law. Whereas the alleged articles in these cases, among others, the alleged theft or alleged child abuse are still under the threat of imprisonment for under 7 years, so that the process of diversion is prioritized in these cases.

In seeking diversion, it begins with deliberations that involve the parents and guardians of the victim and the perpetrator, investigators, the police, social workers from *Disosnakertrans* (Department of Social, Manpower and Transmigration), BAPAS (Correctional Center), LBH (Legal Aid), related NGOs (Non-Governmental Organizations) and community leaders. Then the results of the successful deliberations were completed by pouring out the minutes of the diversion agreement which was continued by making the results of the diversion agreement and the diversion agreement that had been approved by all parties involved in the deliberation. The results of the diversion agreement contained in several of the cases above, peace by providing compassion as compensation for actions that had been done by the child. The subject of diversion in the 10 cases contained recommendations that children should be returned to their parents under proper supervision and education or to participate in education and training at LPKS for a maximum of 3 months by carrying out worship in their respective places of worship for a certain period under the supervision of Public Leaders.

Based on the factors that can influence law enforcement above, related to the obstacles found by LBH 'Aisyiyah Central Java and LBH Atma in enforcing the law on child crimes in Surakarta, there are no difficult obstacles in the application of the Juvenile Criminal Justice System Law itself. Whereas the concept of diversion has been running in Surakarta with many determinations of the results of diversion agreements between the families of the victims and the families of the perpetrators as well as legal aid organizations or non-governmental organizations related to crimes committed by minors. So that the application of the Law on Juvenile Criminal Justice System in law enforcement of child criminal acts has been running quite effectively.

## REFERENCES

- Afif, A. 2015. *Forgiveness, Reconciliation, and Restorative Justice*. Yogyakarta: Pustaka Pelajar
- Angger dan Fuady. 2015. *Juvenile Criminal Justice System*. Pustaka Yustisia: Jakarta.
- Astuti, L. "Legal protection for children in conflict with the law in traffic accidents." *Justitia Journal of Law, Faculty of Law, Muhammadiyah University of Surabaya*. Vol. 1., No. 1. (April, 2017).
- Hadisuprpto, P. Reintegrative Shame Giving as a Non-Penal Tool to Overcome Delinkuent Behavior of Children (Case studies in Semarang and Surakarta). *Dissertation of the Doctor of Law, Diponegoro University*. Semarang. 2003.
- Ibrahim, J. 2006. *Normative Law Theory and Research Methodology*. Malang: Banyumedia Publishing.
- Dimiyati, K. dan Wardiono, K. 2015. *Legal Research Methods (Lecture Handbook)*. Surakarta: Muhammadiyah University of Surakarta.
- Sambas, N. 2010. *Reform of the Child Criminal System in Indonesia*, Yogyakarta: Graha Ilmu
- Salim and Erlies. 2013. *Application of Legal Theory in Thesis and Dissertation Research*. Jakarta: PT RajaGrafindo Persada.
- Chandra, S. "The Political Law of Adopting Restorative Justice in Criminal Law Reform, " *Fiat Justisia Journal of Legal Studies*, Volume 8, No. 2, (April-June, 2014)
- Soekanto, S. 2005. *Introduction to Legal Research*. Jakarta: Publisher, University of Indonesia (UI-Press)
- Soekanto, S. and Mamuji, S. 2010. *Normative Legal Research A Brief Overview*. Jakarta: Raja Grafindo Persada
- Soetodjo, W. 2010. *Child Criminal Law*. Bandung: Refika Aditama
- Wahyudi, S. "Upholding Juvenile Criminal Court with a Progressive Legal Approach in the Framework of Child Protection." *Journal of Legal Dynamics*. Vol. 9., No.1. (January, 2009)
- Wahyudi, S. 2011. *Implementation of The Idea of Diversion in Reforming The Juvenile Criminal Justice System in Indonesia*. Yogyakarta: Genta Publishing
- Widodo, S. "Diversion as a Form of Protection of Children's Rights in Confrontation with the Law (Study at Purwokerto District Court)." *Journal of Legal Cosmic*. Volume 17, Nomor 1. (January, 2017)