



## The Challenges of Diversion at LKS Ummu Syahidah Gorontalo For Juvenile Offenders

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**Abstract:** The purpose of this research is to determine the implementation of diversion efforts against children who commit crimes at LKS Ummu Syahidah Gorontalo. The research method used in this research is an empirical research method using a qualitative approach. The results of this research are that the application of diversion in resolving criminal acts of abuse committed by children at LKS Ummu Syahidah Gorontalo is not yet optimal because from 2021 to 2023 there are only nine criminal acts that meet the requirements for diversion. One of these criminal acts was abuse committed by L who was under 17 (seventeen) years of age. However, in terms of compliance with procedures and regulations, all stages of diversion at LKS Umm Syahidah Gorontalo are in accordance with applicable laws and regulations by the child perpetrator or family, such as asking for compensation that is too large which the child perpetrator or party cannot afford. family so that the implementation of diversion does not reach a successful agreement.

**Keywords :** Diversion; LKS; Criminal act.

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## 1. Introduction

The constitution as the highest law regulates state administration based on democratic principles, and one of the functions of the constitution is to protect human rights guaranteed in the constitution, so that they become constitutional rights of citizens. Based on this, basic knowledge regarding children is a trust from Almighty God, in whom there is inherent dignity and worth as a complete human being. Children are the nation's next generation who are inseparable from human survival and the survival of a nation and state.<sup>1</sup> Every child has dignity that should be upheld and it is fitting that every child born should receive their rights without even having to ask.

Indonesia as a nation that upholds human dignity has fought for children's rights through the Presidential Decree of the Republic of Indonesia Number 36 of 1990, and is also stated in the Law of the Republic of Indonesia Number 4 of 1979 concerning Child Welfare and Law of the Republic of Indonesia Number 35 2014 concerning Amendments to the Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection and Law of the Republic of Indonesia Number 11 of 2014 concerning the Criminal Justice System for Children (hereinafter abbreviated to the SPPA Law) where the entire legal basis adheres closely to the general principles of protection children, namely non-discrimination, the best interests of children, survival and growth and development and respect for children's participation.<sup>2</sup>

The 1945 Constitution of the Republic of Indonesia also clearly regulates children's rights, one of which is the right to survival, growth and development and the right to protection from violence and discrimination. If we refer to the retributive theory or absolute theory proposed by Immanuel Kant and Hegel where "crime is seen as an immoral act so that it must be repaid with punishment where the aim of retaliation is focused on proportional retribution, from this theory, law enforcement officials also tend to focus too much on sanctions against perpetrator, without considering the perpetrator's ability to accept or carry out the punishment imposed on him."<sup>3</sup>

One of the principles regarding child protection is the principle of non-discrimination which prioritizes the best interests of children and the child's right to life, survival and growth and development so that respect is needed for children, including children who commit criminal acts. So there is a need for a juvenile criminal justice system in which there is a process for resolving juvenile cases outside of conventional criminal mechanisms, namely through a trial process and a judge's trial.

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<sup>1</sup> Giovanni Cornelia, Tabitha Roulina Anastasya, and Jedyzha Azzariel Priliska, "Implementasi Prinsip Demokrasi Dalam Hukum Tata Negara: Tinjauan Terhadap Sistem Pemilihan Umum Di Indonesia," *Jurnal Kewarganegaraan* 8, no. 1 (2024): 295–302.

<sup>2</sup> M. Pd Elan et al., *Ketentuan Pidana Atas Pelanggaran Hak Dan Perlindungan Anak* (Ksatria Siliwangi), accessed July 30, 2024

<sup>3</sup> Amanda Tikha Santriati, "Perlindungan Hak Pendidikan Anak Terlantar Menurut Undang Undang Perlindungan Anak," *El Wahdah* 1, no. 1 (2020): 1–13.

Children who are in conflict with the law are greatly influenced by many aspects, both from outside and from within the child. In the criminalization process there needs to be a special approach. The purpose of a special approach is that there is a special criminal process to try children who are in conflict with the law. There is a special approach that if applied to children who fall into the trap or children who are in conflict with the law, they will not feel pressured which will later will make the child depressed when undergoing the legal process, even though the child is the perpetrator, he is still obliged to be given special protection which is intended to avoid negative impacts that arise and harm the child in the future.

Children viewed from various psychological aspects are closely related to the delinquent behavior of children and/or adolescents. There are several definitions of juvenile delinquency or delinquency behavior. M.Gold and J. Petronio define juvenile delinquency as an act by someone who is not yet an adult who deliberately violates the law and which is known by the child himself, so that if the act is discovered by law officers he could be punished. This includes children's violation of statutory provisions specifically intended for them.<sup>4</sup>

This thinking is the basis for creating an alternative step in the form of diversion in resolving juvenile criminal cases or what is usually called diversion. This is because in the status quo, there are so many cases of violations against children that the child has to be put in and serve a sentence in a correctional institution. This concept of diversion cannot be separated from the handling of cases through restorative justice.

A child who commits a crime must be tried in a special children's court within the general justice environment, with a special process and special officials who understand children's problems, starting from arrest, detention, trial process and guidance. However, from the perspective of criminal science, it is important to know that criminal penalties for delinquent children tend to be detrimental to the child's mental development in the future.<sup>5</sup> This is caused by a bad stigma that will be attached to the child in question even when he has finished serving his sentence.

In criminal law theory, the *ultimum remedium* proposition is known or referred to as a last resort, which is an effort to improve a situation that has been damaged by criminal acts in society. The imposition of punishment by state officials on perpetrators of criminal acts is useful in preventing retaliation or conflict in society. Where only the state has the authority to respond and enforce the law in order to achieve justice. This theory is the basis that punishing children should be a last resort to provide a deterrent effect on children if the child has no other alternative to be punished.

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<sup>4</sup> Novita Rindi Pratama, "Diversi Terhadap Anak Pelaku Tindak Pidana Dalam Sistem Peradilan Pidana Anak," *Aktualita* 1, no. 1 (2018): 242–60.

<sup>5</sup> Suisno Suisno, "KETENTUAN DIVERSI TERHADAP ANAK PELAKU TINDAK PIDANA DENGAN ANCAMAN LEBIH DARI 7 (TUJUH) TAHUN PADA PUTUSAN NOMOR: 293/PID. B/2014/PN. PLG," *Jurnal Independent* 6, no. 2 (2018): 135–39.

In line with this, according to the Social Welfare Institute (LKS) Umm Syahidah Gorontalo, it was revealed that crime is the most powerful tool that the state has to fight crime, but crime is not the only tool, so that crime should not be applied separately, but always in combination with other measures. other social actions, especially in combination with preventive measures.

If the problem above is left unchecked, it is predicted that at the level of legal practice it will lead to conflict/conflict both vertically and horizontally with other legislation, doubts in the application of the law and also legal uncertainty. This requires a legal solution which can take the form of creating new legal norms in response to the dynamics of societal development, reviewing legal norms or legal principles that may no longer be appropriate, or can take the form of explaining legal norms.

It is also appropriate not to use criminal law if the losses caused by punishment will be greater than the losses caused by a criminal act, and if its use is thought to be inappropriate. This shows that the weaknesses of individuals are often used as scapegoats, so that many criminal acts cannot be prosecuted by law. Because this is in line with Satjipto Raharjo's opinion, where there is a connection with matters behind the law in the form of a desire to see social logic rather than legal or statutory logic. invitations, which should always be interpreted so that they are always in accordance with current developments and the needs of society.<sup>6</sup>

The application of diversion functions to reduce the negative impacts of children's participation in the justice process, which is intended to reduce and distance children from the justice process so as to avoid stigmatization of children who are in conflict with the law and it is hoped that children can return to the social environment naturally and avoid stigma. societal stigma.

Implementation of Diversion through LKS Umm Syahidah is a form of institution or institution that handles ABH starting from when children come into contact with the justice system, determining the resolution of criminal cases outside of court which is usually applied in civil cases. In Indonesian positive law, the principle is that criminal cases cannot be resolved outside of court, although in certain cases this is possible. However, so far the implications of the practice of resolving criminal cases outside of court are partially based on the Letter of the Chief of Police No: B/3022/XII/2009/SDEOPS dated 14 December 2009 concerning handling cases through alternative dispute resolutions (ADR). Of course, the practice of Diversion through LKS Ummu Syahidah, which is one of the implementations of Restorative Justice that has been tried to be applied in resolving criminal cases, is not in line with Indonesia's rigid criminal justice system. One form of implementing Restorative Justice is through Diversion, which

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<sup>6</sup> Firdani Nur Qisty, "TINJAUAN YURIDIS VIKTIMOLOGIS MENGENAI PERANAN KORBAN DALAM TINDAK PIDANA PENGANIAYAAN YANG MENGAKIBATKAN KEMATIAN DIHUBUNGKAN DENGAN KITAB UNDANG-UNDANG HUKUM PIDANA" (PhD Thesis, FAKULTAS HUKUM UNIVERSITAS PASUNDAN, 2023), <http://repository.unpas.ac.id/62091/>.

according to Natangsa Subakti is seen as a case resolution pattern that is rooted in traditional community culture, then packaged in contemporary terminology.<sup>7</sup>

The existence of diversion through the Umm Syahidah LKS as a resolution of criminal cases outside of court is a new dimension when studied from a theoretical perspective. If it is connected to Pancasila as the basic ideology of the state, then the diversion through the Umm Syahidah LKS which takes the form of deliberation and consensus is in line with the 4th principle of Pancasila, namely "People led by wisdom in deliberation/representation" which linguistically explains that Indonesia is a democratic country.

Pancasila democracy calls for decision making through deliberation to reach consensus. Pancasila democracy means democracy based on people's power which is inspired by and integrated with other Pancasila principles.

In criminal justice practice, it basically has the same nature and objectives as mediation in civil justice practice, what is different is the diversion known in criminal justice practice. Of course, not all criminal acts can be resolved using the diversion method, only criminal acts that have a light criminal threat, as mentioned by Muzakkir in his paper, one of the categorizations of criminal acts that can be resolved outside of court using the diversion method are crimes that are in the light category/ everything is light and law enforcement officers use their authority to exercise discretion.

According to Muladi, the consensus model, which is considered to give rise to new conflicts, should be replaced with the consensus model, because dialogue between disputants to resolve their problems is a very positive step. With this concept, the term ADR emerged, which in certain cases, according to Muladi, better meets the demands of justice and efficiency. ADR is part of the concept of restorative justice which places the judiciary in the position of mediator. For more details, see the United Nations Office for Drug Control and Crime Prevention, which states that restorative justice is a new term for an old concept. The restorative justice approach has been used to solve conflict problems between parties and restore peace in society. Because of retributive or rehabilitative approaches to crime in recent years in solving conflict problems. Therefore, this has led to the urge to switch to a restorative justice approach.<sup>8</sup>

The restorative justice approach framework involves perpetrators, victims and the community in an effort to create balance between perpetrators and victims. It can also be seen in Document A/CONF.187/8 which was presented at the 10th UN congress on the Prevention of crime and the Treatment of Offenders held in Vienna, 10 - 17 April 2000, which is in the basic principles of justice for offenders and victims, including the alternative of restorative justice. According to the document, restorative justice is seen as

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<sup>7</sup> Najamuddin Petta Solong, Yuslin Kasan, and M. Alhabsyi Ni'ma, *Anak Berhadapan Hukum: Pembinaan Dan Partisipasi Stakeholder* (Feniks Muda Sejahtera, 2022),

<sup>8</sup> HENDRO SOESATIYO S TONI, "ANALISIS PENERAPAN RESTORATIVE JUSTICE DALAM PENYELESAIAN PERKARA TINDAK PIDANA PENGANIAYAAN BERBASIS HAM DI POLSEK BANYUMANIK SEMARANG" (PhD Thesis, undaris, 2023), <http://repository.undaris.ac.id/id/eprint/1132/>.

an alternative model in criminal justice. Where all parties take part in solving certain problems together, how to deal with the consequences of those problems and their implications for the future.

In implementing diversion through LKS Umm Syahidah, the emphasis is on reparation and prevention rather than imposing penalties. So it is clear that the diversion carried out is not only limited to providing rehabilitation but also reaches the stage of restoring the child's good name after the criminal case is resolved because of restorative justice and other forms of dispute resolution, both formal and semi-formal.

The process through the diversion approach at LKS Ummu Syahidah aims to:

- a) Explain to the perpetrator that the act is a disgraceful act in society,
- b) Support and respect someone even though their actions are disgraceful. Thus, the aim of the diversion program is to return the perpetrators and victims to society, so that they can become responsible members of society, obey the law and uphold the values that live in society.

In carrying out diversion efforts, generally the perpetrator and the perpetrator's family will use mediators, for example through social welfare institutions or directly with the police. One of the existing social welfare institutions that handles and helps children to receive diversion is the LKS Ummu Syahidah Gorontalo institution. This can be seen in the results of diversion efforts by LKS Ummu Syahidah in the last three years in the following table:

**Tabel 1. The total results of diversion efforts by LKS Ummu Syahidah Gorontalo starting from 2021 to 2023**

No.	Name	Chapter	Diversion Efforts	Note
1.	Pious	Article 351 paragraph (1) of the Criminal Code concerning Persecution	Fail	Attempts at mediation and diversion were rejected by the victim's family.
2.	Rafly	Article 351 paragraph (1) of the Criminal Code concerning Persecution	Succeed	Diversion efforts with victims were successful at the police level.
3.	Farhan	Article 351 paragraph (1) of the Criminal Code concerning Persecution	Fail	Attempts at mediation and diversion were rejected by the victim's family at the prosecutor's office.

4.	Saint	Article 362 of the Criminal Code concerning Theft	Succeed	Diversion efforts with victims were successful at the police level.
5.	Dandy	Article 362 of the Criminal Code concerning Theft	Succeed	Diversion efforts were successful at the police level because.
6.	Nando's	Article 351 paragraph (1) of the Criminal Code concerning Persecution	Succeed	Diversion efforts with victims were successful at the police level.
7.	Nando's	Article 362 of the Criminal Code concerning Theft	Fail	Mediation and diversion efforts failed and were rejected by the victim's family.
8.	Fikri	Article 351 paragraph (1) of the Criminal Code concerning abuse	Succeed	Efforts were successful at the police level.
9.	Fandi	Article 351 paragraph (1) of the Criminal Code concerning Persecution	Succeed	Diversion efforts were successful at the police level.
10.	Randy	Article 362 of the Criminal Code concerning Persecution	Succeed	Diversion efforts were successful at the police level.
11.	André	Article 351 paragraph (1) of the Criminal Code concerning Persecution	Fail	Diversion efforts failed at police level.
12.	G andi	Article 351 paragraph (1) of the Criminal Code concerning Persecution	Fail	Attempts at diversion failed at the prosecutor's level.
13.	Hendra	Article 351 paragraph (1) of the Criminal Code concerning Persecution	Fail	Attempts at diversion failed at the prosecutor's level.
14.	Password	Article 362 of the Criminal Code concerning Theft	Fail	Diversion efforts failed at police level.

15.	Manto	Article 362 of the Criminal Code concerning Theft	Fail	Attempts at diversion failed at the prosecutor's level.
16.	Gandhi	Article 127 paragraph (1) UU.No.35 of 2009 concerning Narcotics	Succeed	The diversion effort was successful at the prosecutor's level.
17.	Arman	Article 351 paragraph (1) of the Criminal Code concerning Persecution	Fail	Attempts at diversion failed at the prosecutor's level

**Table 2. Age classification of children in diversion cases**

No.	Name	Age	Case
1.	Dandy	15 years	Theft
2.	Gandhi	16 years	Persecution
3.	Gandhi	17 years	Narcotics
4.	André	17 years	Persecution

As can be seen in the table above, of the total of 17 cases of diversion efforts handled by LKS Umm Syahidah starting from the age of 14 - 17 years and as a facilitator and mediator, nine of them were successfully accepted by the police and prosecutor's office. One of the most prominent cases handled by LKS was the case of a 17 year old teenager with the initials L, who was charged with Article 351 paragraph (1) of the Criminal Code concerning abuse. L diversion was granted because the cause of the crime was one of the factors influenced by lack of parental guidance, this happened because the client was far from his biological parents, now the client only lives with his grandmother at home, and the condition of the client's elderly grandmother makes his grandmother less effective. in coaching or supervising clients' daily lives. So, based on this, the police and the victim's family agreed to transfer the criminal process to Article 1 Paragraph (1) of Supreme Court Regulation No. 4 of 2004 concerning Guidelines for Implementing Diversion in the Juvenile Criminal Justice System emphasizes that the mechanism for implementing the diversion process is carried out through deliberation. Diversion deliberations are deliberations between the parties involving children and their parents/guardians, victims and/or their guardians, community counselors, social workers. professionals, community representatives and other parties to reach an agreement on diversion through restorative justice.



In the process of implementing this diversion there are obstacles that can hinder the process of punishing children, including many victims' families who do not agree if the perpetrator is given leniency in serving his sentence,<sup>9</sup> the victim's family is more likely to ask that the perpetrator be punished more severely. Of course, this cannot happen, considering that the perpetrator is a minor or immature child and this child must also get his rights even though he has committed a criminal act.

## 2. Method

This research is a type of empirical legal research. Empirical legal research is oriented to primary data (results of research in the field). Empirical legal research is an approach carried out by field research by looking at and observing what happens in the field, the application of these regulations in practice in society.<sup>10</sup>

## 3. Implementation of diversion efforts against children who have committed criminal acts of abuse at LKS Ummu Syahidah Gorontalo

Numerous developments have occurred in addressing crimes committed by children in Indonesia. Changes in the juvenile justice system are evident. In 1970, due to high crime rates, Presidential Instruction No. 6 of 1971 was issued to coordinate efforts to combat and prevent violations. The implementation of Law No. 11 of 2012 on the Juvenile Criminal Justice System, replacing Law No. 3 of 1997 on Child Protection, aimed to better protect children in conflict with the law. This law differentiates the treatment of such children within criminal procedures, promoting out-of-court resolutions to support their mental growth and development. The law also stipulates exceptions for children, ensuring their detention considers their interests and their penalties are less severe than those for adults.

Children, due to their dependence on adults and lack of maturity, are seen as vulnerable. Their delinquency is influenced by external factors such as rapid societal changes, globalization, and advancements in technology, which affect their values and behavior. The criminal justice system, starting from investigation to the implementation of decisions, is complex. For instance, a case of abuse in Gorontalo City was handled through diversion by LKS Ummu Syahidah Gorontalo. The case involved a child, L, who reacted in self-defense during an attack, accidentally causing the death of the aggressor. The incident highlighted the importance of parental guidance, which L lacked, leading to uncontrolled behavior and eventual criminal actions.

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<sup>9</sup> Mahendra Ridwanul Ghoni and Pujiyono Pujiyono, "Perlindungan Hukum Terhadap Anak Yang Berhadapan Dengan Hukum Melalui Implementasi Diversi Di Indonesia," *Jurnal Pembangunan Hukum Indonesia* 2, no. 3 (2020): 331–42.

<sup>10</sup> Budi Juliardi et al., *Metode Penelitian Hukum* (CV. Gita Lentera, 2023), [https://books.google.com/books?hl=id&lr=&id=vyXbEAAAQBAJ&oi=fnd&pg=PA107&dq=metode+penelitian+hukum+2023&ots=URsVKN1YD1&sig=QzJh2fORIs3Ga8\\_DExUkt\\_YWOYY](https://books.google.com/books?hl=id&lr=&id=vyXbEAAAQBAJ&oi=fnd&pg=PA107&dq=metode+penelitian+hukum+2023&ots=URsVKN1YD1&sig=QzJh2fORIs3Ga8_DExUkt_YWOYY).

Rehabilitation at LKS Ummu Syahidah showed significant positive changes in L, including improved religious practices, cleanliness, initiative, independence, and better communication with parents. These changes demonstrate the effectiveness of diversion and restorative justice in juvenile cases, although proving elements of intent and severity in such cases is essential.

Legal definitions of abuse, as outlined by experts, emphasize intentional actions causing pain or injury. The law categorizes abuse into ordinary, light, premeditated, and severe, each with specific penalties. L's case, involving accidental stabbing and subsequent panic, could be classified under different abuse categories, potentially affecting the diversion outcome. The incident underscores the need for careful juridical analysis to determine the appropriate legal response.<sup>11</sup>

The investigation revealed that the abuse resulting in death was committed by a child named L. Based on the report from the victim's family to the East City Police Station, Gorontalo, and the examination of evidence, L was named a suspect. L's family requested mediation through LKS Ummu Syahidah and the East City Police Station, adhering to RI Law No. 11 of 2012 on the Juvenile Criminal Justice System, to avoid the arrest and detention of children.

From 2021 to 2023, LKS Ummu Syahidah handled 17 diversion cases, nine of which were successful. Staff at LKS Ummu Syahidah always attempt mediation in juvenile criminal cases, bringing together the victim, perpetrator, and their families. Mediators and facilitators explain the case to the victim's family and allow the suspect to express their desire for reconciliation. If the victim's family agrees to reconcile, the mediation is considered successful, and the investigation is stopped; otherwise, the legal process continues.<sup>12</sup>

Diversion aims to provide guidance to children in conflict with the law so they can grow normally and become better individuals by diverting cases from the criminal justice system. Law No. 11 of 2012 promotes restorative justice and diversion to avoid stigmatizing children and returning them to their social environment naturally. The diversion process must consider the victim's interests to find common ground.

Law enforcement's implementation of diversion, based on discretion, includes three types:

1. Social control: law enforcement hands over the offender to the community for supervision.

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<sup>11</sup> M. Sakti Pulungan and Indra Gunawan Purba, "Tinjauan Yuridis Tentang Penganiayaan Akibat Rasa Sakit Hati (Kajian Kepada Putusan Nomor: 2142/Pid. B/2021/PN Medan)," *Jurnal Normatif* 2, no. 2 (2022): 190–96.

<sup>12</sup> Tofik Yanuar Chandra, "Penerapan Restorative Justice Dalam Sistem Peradilan Pidana Anak Di Indonesia," *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial* 11, no. 01 (2023): 61–78.

2. Social service: the community supervises and provides services to the offender.
3. Restorative justice: involving the victim, offender, and community to reach an agreement.

The diversion process at LKS Ummu Syahidah includes:

1. Receiving a complaint report.
2. Examining the victim, the reported party, and witnesses.
3. Using the juvenile criminal justice system per Law No. 11 of 2012.
4. Returning the offender to their parents with a guarantee.
5. Sending a letter for child research.
6. Scheduling diversion with the involved parties.
7. Creating a diversion report and sending the agreement to the Gorontalo District Court.
8. The court issuing a diversion ruling.

The diversion agreement includes security guarantees, a commitment not to repeat the offense, and rehabilitation at LKS Ummu Syahidah. If the victim's family agrees, the investigation is stopped. The court issues a diversion ruling, which includes granting the investigator's request and implementing the diversion agreement.

From 2021 to 2023, only nine cases met the diversion criteria in Gorontalo City, one of which involved L, who was under 17 years old. Diversion at LKS Ummu Syahidah is appropriate from a restorative justice perspective, as it involves out-of-court settlement before the judicial process, in accordance with Law No. 11 of 2021 on the Juvenile Criminal Justice System.

### **3. Obstacle in trying implementation diversion in Umm Syahidah Worksheet Gorontalo for children who have committed criminal acts**

The juvenile criminal justice process often presents itself as a mechanism that is only oriented towards formal law enforcement and is not oriented towards the interests of children. Enforcement of criminal law against children must prioritize the child's future. If possible, children who are in conflict with the law should not be sent to prison, because if a child is imprisoned there will be a negative stigma from society. The implementation of diversion on children who have committed criminal acts will provide new understanding to investigators without having to take away their liberty so that resolving cases of children who have committed criminal acts for the first time by emphasizing the

recovery of victims becomes an alternative in the juvenile criminal justice system in Indonesia.<sup>13</sup>

Based on the provisions of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, investigations into perpetrators of child crimes can only be carried out if the perpetrator of the crime is 14 (fourteen) years old but has not reached the age of 18 (eighteen),

Children under the age of fourteen who commit criminal acts will receive guidance and be returned to their parents/guardians. In Article 29 of Law No. 11 of 2012, one form of diversion action that investigators can take against children who have committed criminal acts is by returning them to their parents. In this regard, it is necessary to provide understanding to parents and the community regarding the protection of children during their growth period, thus efforts need to be made to establish cooperation between parents, the community and investigators. Investigators try to provide understanding to the perpetrator and the perpetrator's family so as not to hinder or complicate the investigation process so that the legal status and existing legal cases can be resolved as quickly as possible.

Legal protection for children in the criminal justice system in Indonesia can be seen from the entire legal process, starting from the investigation, arrest and detention, prosecution, trial and guidance stages. The entire process must be carried out based on the provisions of the SPPA Law and must prioritize the needs, development and growth of children, both mentally, physically and socially, and the interests of society.

#### 1) Investigation

Investigations of children are carried out by special investigators who have been appointed based on the Decree of the Head of the National Police of the Republic of Indonesia or other appointed officials. This means that the special juvenile investigator has met the requirements, namely having experience as an investigator, having interest, dedicated attention, understanding children's problems and having attended technical training on juvenile justice. Investigations into children's cases are carried out by investigators. Article 29 of the SPPA Law states that investigators are obliged to attempt diversion within a maximum of 7 (seven) days after the investigation begins. Investigators make a report regarding the child's case, the child's background and the reasons for committing the delinquency, by interviewing them gently and patiently.

#### 2) Arrest and detention

Arrest of a child for investigation purposes is a maximum of 24 (twenty four) hours and the child must be placed in a special children's service room. If a special children's service room does not yet exist in the area, the child is entrusted to LKS Ummu Syahidah Gorontalo. The arrest of children must be carried out humanely.

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<sup>13</sup> Fiska Ananda, "Penerapan Diversi Sebagai Upaya Perlindungan Hukum Terhadap Anak Pelaku Tindak Pidana," *Jurnal Daulat Hukum* 1, no. 1 (2018), <https://jurnal.unissula.ac.id/index.php/RH/article/view/2566>.

After arrest, detention can be carried out. Detention can be carried out, meaning that the child does not have to be detained, the detention is basically carried out for the purposes of examination and the detention must show the interests of the child. Child detention areas must be separated from adult detention areas. This is intended to prevent children from being exposed to bad influences that can be absorbed through cultural context with other prisoners.

3) Prosecution

Prosecution in children's cases is carried out by the Public Prosecutor appointed based on the Attorney General's Decree or another official appointed by the Attorney General. Article 42 of the SPPA Law states that the Public Prosecutor is obliged to seek diversion no later than 7 (seven) days after receiving the case file from the Investigator.

4) The judge

The judge examines and decides children's cases in the first instance with a single judge. The judge is obliged to seek diversion no later than 7 (seven) days after being appointed by the chairman of the district court as judge.

5) Coaching

Children who are sentenced to prison are placed at LKS Ummu Syahidah Gorontalo. The child has the right to receive coaching, mentoring, supervision, mentoring, education and training, as well as other rights in accordance with the provisions of statutory regulations. LKS Umm Syahidah is obliged to provide education, skills training, guidance and fulfill other rights in accordance with the provisions of statutory regulations. Community advisors conduct community research to determine the implementation of the education and development program.<sup>14</sup>

Child protection is not only through the judicial process, but also through diversion, which involves the perpetrator, victim, family, and related parties to find a fair and restorative solution. Diversion is the transfer of the settlement of children's cases from the criminal justice process to a process outside of criminal justice, as stipulated in Article 1 point 7 of the SPPA Law, which must be carried out at the level of investigation, prosecution, and examination of cases in the District Court for criminal offenses with a criminal threat of less than 7 years and not repetition.<sup>15</sup>

Crime handling can be repressive, without punishment, or using public opinion and legal socialization. Diversion provides a better alternative for juvenile offenders than the formal justice process, which often leads to deprivation of liberty with negative impacts.

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<sup>14</sup> Dewi Iriani and Widya Nuarreni Astuti, "Hukum, Kejahatan Dan Karakter Pancasila," in *Proceeding of Conference on Law and Social Studies*, 2020, 70–78, <https://prosiding.unipma.ac.id/index.php/COLaS/article/download/1832/1578>.

<sup>15</sup> Haris Dwi Saputra and Muhammad Miswarik, "Implementasi Diversi Dalam Sistem Peradilan Pidana Anak Yang Berhadapan Dengan Hukum," *INICIO LEGIS* 2, no. 1 (2021), <https://journal.trunojoyo.ac.id/iniciolegis/article/view/11071>.

Diversion efforts are carried out by law enforcers such as investigators, prosecutors, and judges to reduce the negative impact of criminal justice on children.

Diversion aims to reduce the negative impact of children's involvement in the justice process with a restorative justice approach, which prioritizes the needs and interests of the child's future. Diversion involves deliberation between the offender, victim, family, and relevant parties to reach a fair agreement. Obstacles to the implementation of diversion include lack of consent from the victim or victim's family and unrealistic demands for compensation. The solution to overcome these obstacles is to socialize the diversion method to the community and related parties. Diversion in resolving juvenile criminal cases aims to achieve justice and balance for perpetrators, victims, and society in accordance with the theory of Restorative Justice.

#### 4. Conclusion

The application of diversion in resolving criminal acts of abuse committed by children at LKS Ummu Syahidah Gorontalo is not yet optimal because from 2021 to 2023 there are only nine criminal acts that meet the requirements for diversion. One of these criminal acts was abuse committed by L who was under 17 (seventeen) years of age. However, in terms of compliance with procedures and regulations, all stages of diversion at LKS Umm Syahidah Gorontalo are in accordance with applicable laws and regulations by the Child Actor or family, such as asking for compensation that is too large which the Child Actor or party cannot afford. family so that the implementation of diversion does not reach a successful agreement.

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