

Rehabilitation of Juvenile Throughout Diversion Institution As an Effort of Recidive Offenses on Juvenile Offenders

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Abstract. The core of diversion in the settlement of the offense which is done by juveniles is to realize restoration of all damages caused of juvenile's deviant behavior such as physical, psychic, and social damages and to prevent deviant behaviour in future. It was ironically, Indonesian Juvenile criminal Law prohibit to provide diversion to the juvenile who committes recidive offense. There is disadvantage to achieve the goal of deviant behaviour prevention. The purpose of this research is to know how does influence of rehabilitation on diversion process related with prevention of recidive offense, and what kinds of factors caused recidive offense on juvenile behaviour. There is empirical juridical method used in this research. This research found some results that the rehabilitation to the juveniles give some positive influences to the most of juveniles, but have no positive influences to certain juveniles, and made them committed recidive offenses. The dominant factors which give influences to the juveniles behavior are found in families and peers environment, and even in certain society where its social order has distorted by any certain group in society.

1 Introduction

Increasing the quantity of crime among children and the adverse effects of involving the formal criminal system for young criminals, encourages the government to establish rehabilitation program that allows for diversion, aimed at providing child-oriented justice. This transfer program is actually a way to early prevent the development of behavior that is worse than the perpetrator and broadly is an effort to prevent repetition of crime. This kind of thing needs to be taken in view of the physical and psychological limitations of children and the adverse effects of the intervention of the formal justice system on children's growth and development.

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The form of the program in question can be developed, one of which is through a diversion mechanism, therefore diversion is one of the alternative policies used by the Government of Indonesia to settle child crimes. Diversion is also intended to correct any damage caused by perpetrator. By the initiator of the transfer program originating from the Restorative approach, it was emphasized that the implementation of the transfer process must primarily get approval from the victim [1].

In its implementation, diversion requires certain conditions for the interests of public justice at large. This policy is set forth in Article 7 - Law No.11 of 2012 concerning the Child Criminal Justice System. The damage referred to in the diversion process includes physical damage, psychological damage, and social damage. Thus the purpose of the application of diversion is actually not just settle a crime outside the formal justice and give compensation to the victim but there is a change the pattern of behavior and thought of the perpetrator of the crime against the violation of the law that has been done and understanding the correct responsibility for the consequences of his actions. Repair of damage is prevented from returning to criminal acts in the future by young perpetrators. In the discussion of A.R.Deffoset the intervention program is used to process the perpetrators, to influence the actors to develop positively [2].

Repetition of criminal acts arises from various factors, both internal factors and external factors. In addition, repetition of criminal acts also indicates that there is a malfunction of certain elements in the child development system in dealing with the law (borrowing the term Law 11/2012). Coaching children with problems with the law is a shared responsibility between parents, government (law enforcers, especially corrective institutions (prison officers and Bapas, social services) and the community including NGOs. Thus the long journey from the coaching process to realize the recovery of damage (physical damage, psychic and social), and preventing the repetition of criminal offenses by youth in conflict with the law requires the support of many parties.

2 Methodology

The purpose of this study was to determine the influence of the coaching program, (in the form of an action) from the diversion process on efforts to prevent repetition of criminal acts by child perpetrators / young perpetrators as well as factors that influence the occurrence of repetition of bad behavior of children. to find out the factors that led to the repetition of criminal acts. To find out the influence of coaching forms that are manifested in a particular program of guidance on efforts to prevent repetition of crime by children and uncover the factors causing repetition of crime, this study uses an empirical juridical method with a purposive sampling model to get a real illustration of crime repetition.

3 Discussion

3.1. Influence of Rehabilitation throughout a diversion decision as an effort to prevent repetition of criminal acts among children and The Factor or repetition crime (Recidive)

The occurrence of repetition of criminal acts by child perpetrators, especially by child perpetrators who have received settlement of their crimes through a diversion mechanism needs to get their own attention. This is important to know about cause of disfunctioning this policy in practice, and as an evaluation to settle of child criminal act. Judging from the

policies of the Government of Indonesia, especially Article 7 paragraph 2 of Law No. 11 of 2012 concerning the Criminal Justice System of Children, then the repetition of criminal acts by children will not give another opportunity to the perpetrator to settle his criminal act through a diversion mechanism for the second time, [3]. Referring to this policy, the child will deal with the Criminal Justice System with its various effects which actually do not benefit children development in the future . Repetition of a criminal act is defined as committing a criminal act again after being clarified by a criminal with permanent legal force by the judge (*Inkracht van gewijsde*) [4]. Related with the repetition of criminal acts (Recidive) committed by children there is no specific regulation by Law No. 11 of 2012 so that repetition of criminal acts will refer to the provisions of the Criminal Code where the Criminal Code regulates recidency issues specifically for certain groups of criminal acts in the form of crimes in Book II and violations in book III KUHP. In addition, the Criminal Code determines certain repetition periods for criminal acts so that the Criminal Code uses a special Residiv System, meaning that criminal penalties are only imposed on repetition of certain types of criminal acts (crimes / violations) committed within a certain period of time. Repetition of crime will be the reason for the criminal weight. There are 11 types of crimes with a given period of time (Article 137 (2), 144 (2), 208, 216, 303 bis 321 with a expired period of two years; Articles 154, 157, 161, 163 and Article 393 with a expired period of five year; Article 486, 477 488 is a repetition in a type group) and recidive violation, (Articles 489,492 495, 501, 512, 516, 517, 530, 536, 540, 541, 544, 545, 549) [5].

From the study of the repetition of criminal acts by children from 2016 to 2018 in central Java ,the repetition of criminal acts whose settlement had used the diversion , only 8 cases were found, from all research locations, this means that from the whole diversion, the percentage of repetition was not large . For a clearer vision, this number can be seen in the following table: [6].

Table 1.

No	Institution	EdC	Diversion			repetition			Type of violation			Form of rehabilitation					Repetition
			2016	2017	2018	2016	2017	2018	2016	2017	2018	2016	2017	2018			
1	Bapas Kls.I Semarang	SD	107	130		1	1	-	Article 170 KUHP Masive attack	Article 362 KUHP hijacking	-		rehabilitation	-		Article 363 KUHP	-
2	Bapas Kls II Surakarta	SD, SMP, - ; -	275	161		1	1	1	Article 362 KUHP hijacking	Article 170 KUHP PMassive attack)	Article 362 hijacking)	Rehabilitation in antasena .			Article 363; Article 363, Article 170	Narcotic	Article 378 KUHP

3	Bapas Kls II Purwo kerto	SD ; SD	18	15		1	1		Artic le 351 KUHP misstre atment)	Artic le 351 KUH Pmis streat ment)		reha bilita tion					
4	Bapas Kls II Magela ng	SMP	49	28			1			Arti cle 362 KUH P(/hi jacki ng			R eh abi lita tio n				Artic le 1170 KHU P Mass ive attach

From these data, we know that the criminal offense that is violated again is a criminal offense that is likely to have a very high chance of being repeated, and more on a similar crime because they already had experience about. The form of diversion agreement based on the results of the study consist of rehabilitation of the suspect, with education and training programs and coaching in social institutions that were indeed appointed by the government as part of rehabilitation institutions for children . Some of the results from the diversion agreement program above show that diversion efforts carried out and the implementation of the results of the diversion agreement have not been fully give positive effect for children who have become suspect of crime, it has been proved by the repetition of criminal acts by the suspect, so the diversion agreement does not affect changes in attitudes and behavior.

Judging from the data treatment given to children in their diversion decisions against previous crimes committed mostly placed in an institution that was actually has been choosed by the government to participate in providing guidance to them. Many program were designed to fullfill perpertrous needs , for example religious programs that are chosen as mandatory programs with the consideration that religious values and norms are expected to remind the need for a strong faith as a way to distance from evil deeds. Education programs are rarely given, even if there is a program in the form of a short package education program because the perpetrators are mostly low-educated (elementary, junior high). The habit of street life without the attachment of certain values to others makes it difficult for them to accept other programs that are given because these programs are enough to burden them, do not fit their habits, school habits (the habit of reading, writing or the habit of honing skills. From this fact it might be concluded whereas that it turns out that for certain actors with the internal and external conditions and the wrong mind set about right behavior, good life responsibilities and perspectives are not effective enough so that the transfer of form of the program cannot influence the suspect to repeat their crime even though they are still young. This is the same that the success of the diversion process only stops at the process of apology of the suspect and compensation for victims. They are reflected in Lipsey and culler's research (Lipsey Culler, 2007) [7]. But for some customers beginners rebeller whose conditions are tend to be influenced to change good mindset and behavior patterns, diversion programs can be well realized and settled so that repetition of criminal acts can be prevented. However, the small number of repetitions of criminal acts should not discourage efforts to prevent the development of delinquency behavior and attempt to repair any damage caused by a crime committed again, because this step aims are actually to provide better protection for children who have problems with their behavior, as well as protection for the community. Beside internal problem , in this study was found a number of external child factors that actually also contribute to the development of child abuse and provide opportunities to

repetition of crime. The first external factor was low education. Low education turned out to be related to a low economic level, so education was not an important factor in children's intellectual development. The second external factor is the parents "Broken Home" condition. Broken home condition can cause loss of pattern of norm and value to child, and loss of live value can dispose violent behavior for child [8], beside that grandmother or their relatives rearing bring different consequences to tranfer of norm and value, child disposed ignore them and choose free street live with antisocial behavior. Différentiant Association Theory from Sutherland argues that antisocial attitudes and behavior are learned through the social learning process.

4 Conclusion

Based on the discussion of research data, it can be concluded that rehabilitation programs intended for children who have problems with their behavior through a diversion decision mostly have a positive effect on children who receive and understand the coaching program as a way to improve behavior and all damage caused by deviant behavior. But this coaching program is not effective for certain children with a number of conditions that cause the child to do bad behavior. Efforts to settle child crimes through diversion do not necessarily provide ways to prevent crimes, but only limited to the form of criminal offenses.

The cause of repetition of crime is by several factors, including:

1. Internal factors of child / offender (low education, personality tends to be bad)
2. External factors that affect suspect to commit crimes (environment, family, broken home parents, children do not live with parents so there is no transfer of norms or values that can provide guidelines for good behavior for children; poor social families also become a factor causing children to repeat crime, to fulfill the wishes of children who in fact want to have living facilities like other children);
3. Factors of community social life that are not supportive for the child's growth and development (there are bad habits of the community that are seen by children who are then used as support for deviant behavior)
4. There is no intensive coaching that takes place in one place of training (orphanage) because of various factors (limited human resources, infrastructure that is not too supportive and other unpreparedness needed by the child, for example, inappropriate training programs;

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