



## The Role of the Public Prosecutor in settlement of Child Cases Through Diversion at the Purwokerto District Attorney

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### Abstract

Wherever possible, the child is avoided from examination in court. As long as it fulfills the conditions specified, juvenile criminal cases must be resolved through Diversion. The Indonesian Child Protection Commission states that there are 7000 cases of children facing court proceedings every year. This study aims to determine the role of the public prosecutor in resolving child cases through Diversion and the obstacles to implementing Diversion at the Purwokerto District Attorney. The method used is normative juridical, namely researching library materials or secondary data by searching for regulations related to the problems in this study. The results of this study 1) The role of the Public Prosecutor in resolving child cases through Diversion at the Purwokerto District Attorney's Office is to act as a mediator. If the Diversion does not reach an agreement, the Public Prosecutor shall make an official report declaring the diversion process failed and transfer the case to the District Court. On the other hand, if the Diversion is successful, the Public Prosecutor makes an official report and then submits it to the District Court. 2) The Public Prosecutor's constraints in resolving child cases through Diversion are the unclear regulations regarding the guidelines for implementing diveri at the beginning of the enactment of Law Number 12 of 2012 Regarding the Juvenile Criminal Justice System until finally, in 2015, the government issued the Regulation of the Attorney General of the Republic of Indonesia Number PER-006/JA/04/2015 concerning Guidelines for Implementing Diversion at the Prosecution Level. If the victim was not cooperative, the perpetrator could not fulfill the request for compensation from the victim. That culture develops in society that perpetrators of crimes must be tried and sentenced to prison regardless of whether the perpetrator is a minor, hindering the diversion process's implementation.

Keywords: Prosecutor's Role, Children, Diversion

### Abstrak

*Sedapat mungkin anak dihindarkan dari pemeriksaan di pengadilan. Sepanjang memenuhi syarat yang ditentukan perkara pidana anak harus diselesaikan melalui diversi. Komisi Perlindungan Anak Indonesia menyebutkan setiap tahunnya terdapat 7000 kasus anak berhadapan dengan proses pengadilan. Penelitian ini bertujuan mengetahui peran jaksa penuntut umum dalam penyelesaian perkara anak melalui diversi dan kendala-kendala dalam pelaksanaan diversi di Kejaksaan Negeri Purwokerto. Metode yang digunakan adalah yuridis normatif yaitu meneliti bahan pustaka atau data sekunder dengan cara mengadakan penelusuran terhadap peraturan-peraturan yang terkait dengan permasalahan dalam penelitian ini. Hasil penelitian ini 1) Peran Jaksa Penuntut Umum dalam penyelesaian perkara anak melalui diversi di Kejaksaan Negeri Purwokerto yaitu bertindak sebagai mediator. Jika diversi tidak mencapai kesepakatan maka Jaksa Penuntut Umum membuat berita acara yang menyatakan proses diversi gagal dan melimpahkan perkara ke Pengadilan Negeri. Sebaliknya apabila diversi berhasil maka Jaksa Penuntut Umum membuat berita acara kemudian menyerahkan ke Pengadilan Negeri untuk dibuatkan penetapan, 2)Kendala Jaksa Penuntut Umum dalam penyelesaian perkara anak melalui diversi yaitu, belum jelasnya peraturan terkait pedoman pelaksanaan diveri pada awal berlakunya Undang-Undang Nomor 12 Tahun 2012 Tentang Sistem Peradilan Pidana Anak sampai akhirnya pada tahun 2015 pemerintah mengeluarkan Peraturan Jaksa Agung Republik Indonesia Nomor PER-006/JA/04/2015 Tentang Pedoman Pelaksanaan Diversi Pada Tingkat Penuntutan, pihak korban tidak kooperatif, pelaku yang tidak sanggup memenuhi permintaan ganti rugi dari korban, budaya yang berkembang di masyarakat bahwa pelaku kejahatan harus diadili dan dijatuhi pidana penjara tanpa memperdulikan pelaku adalah anak di bawah umur menghambat pelaksanaan diversi proses. Kata Kunci: Peran Jaksa, Anak, Diversi*

## I. Introduction

Children are a mandate and gift from God Almighty, who has inherent dignity and worth as a whole human being. Children are buds, potentials, and the younger generation who will succeed in the ideals of the nation's struggle, so children's role is very strategic for the progress of the nation and state in the future. So that every child will be able to take on these responsibilities, then he needs to get the amplest opportunity to grow and develop optimally, both physically, mentally, and socially and has a noble character, so it is necessary to make efforts to protect children's welfare by providing guarantees for children's welfare – fulfillment of their rights and treatment without discrimination.<sup>1</sup>

Protection efforts are needed to realize children's welfare by providing guarantees to fulfill children's rights and treatment without discrimination. Therefore to provide legal protection to children, the Indonesian government established Law Number 23 of 2002 concerning Child Protection, which states that child protection aims to ensure the fulfillment of children's rights so that they can live, grow and develop, and participate optimally under human dignity, as well as protection from violence and discrimination, for the realization of quality, noble and prosperous Indonesian children.<sup>2</sup> The principle of legal protection for children must be under the Convention on the Rights of the Child, ratified by the Government of the Republic of Indonesia with Presidential Decree Number 36 of 1990 concerning Ratification of the Convention on the Rights of the Child. This Convention states that childhood is a period of sowing seeds, erecting piles, and making foundations called the formation of character, personality, and human character so that they have the strength and ability to stand firm in carrying out life. They can grow and develop naturally physically and mentally and receive special assistance protecting themselves from all possibilities that endanger them. Child protection activities are a benchmark for the nation's struggle.<sup>3</sup> Therefore, the Convention on the Child's Rights regulates legal protection for children and should provide special protection for children in conflict with the Law.

Many factors influence children to commit criminal acts, such as economic, educational, environmental, and weak law enforcement.<sup>4</sup> Children have not grown perfectly psychologically and have the ability to think, so basically, criminal acts committed by children are not entirely their responsibility. Children without compromising the interests and sense of Justice for victims and society.<sup>5</sup>

The handling of criminal cases committed by children is different from the handling of criminal cases carried out by adults. As long as it fulfills the conditions specified, juvenile criminal cases must be resolved through Diversion. Based on data from the Indonesian Child Protection Commission nationally in Indonesia, there are 7000 cases of children facing court proceedings every year. Based on data from the Indonesian Child Protection Commission, there are 7000 (seven thousand) cases of children facing court proceedings every year nationally in Indonesia.<sup>6</sup>

In the 2017-2020 period, the correctional system database recorded around 3,748 (three thousand seven hundred forty-eight) children labeled as criminals at the Central Java regional office (Kanwil). Meanwhile, in Purwokerto Class II A Prisons, it was recorded that for the 2017-2020 period, there were 143 (one hundred and forty-three) criminal children. If guided by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, in resolving child cases, it prioritizes restorative Justice in which there is a process of resolving child cases outside of

<sup>1</sup> Bilher Hutahaean, "Penerapan Sanksi Pidana Bagi Pelaku Tindak Pidana Anak," *Jurnal Yudisial* 6,1 (2013) : 64-79.

<sup>2</sup> Mohamad Taufik Makarao, *Hukum Perlindungan Anak dan Penghapusan Kekerasan dalam Rumah Tangga*. Jakarta: Rineka Cipta, 2013 : 1.

<sup>3</sup> Sherty Yunia Safitri, Elwi Danil, "Problems With Implementing Diversity Efforts at the Prosecution Stage", (Case Study at the South Coast Prosecutor's Office), *International Journal of Multicultural and Multireligious Understanding*, (2018) 5, 6 : 243-249

<sup>4</sup> Khairul Ihsan, "Faktor Penyebab Anak Melakukan Tindakan Kriminal", *JOM FISIP* (2016) 3, 2.

<sup>5</sup> Selamat Widodo, "Diversi Sebagai Bentuk Perlindungan Hak Asasi Anak yang Berhadapan dengan Hukum", *Jurnal Kosmik Hukum* 17,1 (2017): 51-61

<sup>6</sup> Iswidodo, "Hanya 10 persen kasus pidana anak di selesaikan secara pantas," *Tribunnews*, (2018). <https://jateng.tribunnews.com/2018/05/01/hanya-10-persen-kasus-pidana-anak-diselesaikan-secara-pantas>. diakses pada hari Jumat, 1 Mei 2020.

conventional criminal mechanisms. Child cases must be subject to a diversion process at every level of the Law, where the concept of Diversion and restorative justice is an alternative form of settlement of criminal acts directed at non-formal settlements by involving all parties involved in the crime that occurred so that in handling child criminal cases it does not result in a decision on detention or confinement of the child.<sup>7</sup>

In the Case Investigation Information System (*Sistem Informasi Penelusuran Perkara*, SIPP) of the Purwokerto District Court in the 2017-2020 period, there were 54 (fifty-four) child criminal cases with several decisions resulting in imprisonment for child offenders. Meanwhile, based on data obtained from the Purwokerto District Attorney's Office from 2014 to 2020 in the third quarter, there were 96 (ninety-six) cases of children as perpetrators. Of the 96 (ninety-six) cases of children, 5 (five) of them were diverted, and 3 (three) cases succeeded in obtaining a peace agreement. Based on these problems, researchers are interested in examining "The Role of the Public Prosecutor in settlement of Child Cases Through Diversion at the Purwokerto District Attorney."

## II. Research Problems

1. What is the role of the public prosecutor in resolving child cases through Diversion at the Purwokerto District Attorney?
2. What are the problems faced by the public prosecutor in resolving child cases through Diversion at the Purwokerto District Attorney?

## III. Research Methods

The research method used is normative juridical, namely legal research carried out by examining library materials or secondary data as primary materials to be studied by searching for regulations related to the problems in this research. In this study, secondary data will be examined. In normative juridical research, data collection is carried out by collecting, reviewing, and systematically processing library materials and related documents and by interviewing sources to complete the analysis of the problems formulated in this study. The data from the research will be analyzed using a qualitative descriptive analysis method, which is a way to describe or describe the current state of the subject or object of research based on visible factors.

## IV. Research Results And Discussion

### 1. The Role of the Public Prosecutor in settlement of Child Cases Through Diversion at the Purwokerto District Attorney

Handling cases of children dealing with the Law is essentially different from handling cases carried out by adults. Based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, the settlement of children's cases must prioritize a restorative justice approach, namely a process outside the court and involving the perpetrator, the victim, the perpetrator's family, the victim's family, and related parties to jointly seek a fair solution by emphasizing the restoration to its original state, and not retaliation.<sup>8</sup>

UNICEF developed restorative Justice based on international legal instruments for children who have legal problems, one of which is The Beijing Rules. This concept emphasizes Justice, which can restore the condition of children as perpetrators of crimes, children as victims of crime, and disturbed communities. Restorative Justice focuses on crime as loss/damage and Justice, namely efforts to repair the damage with a vision of increasing the role of crime victims, perpetrators, and the community as 3 (three) critical determinants of the criminal justice system for the welfare and security of the community.<sup>9</sup>

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System emphasizes the

<sup>7</sup> Marlina. *Pengantar Konsep Diversi dan Restorative Justice dalam Hukum Pidana* (Medan: Art Design Publishing, 2010), 17.

<sup>8</sup> Sulardi, "Kepastian Hukum, dan Keadilan terhadap Perkara Pidana Anak," *Jurnal Yudisial* 8,3 (2017): 251-268

<sup>9</sup> Dewi Setyowati, "Diversion in the Child Criminal Justice System as an Effort to Implement Restorative Justice," *ULREV Unram Law Review*, 4,1 (2020) : 64-73.

obligation for law enforcement officers to seek Diversion first by prioritizing restorative Justice, specifically for those whose criminal penalties are under 7 (seven) years in resolving child cases. Settlement outside the judicial process is expected to provide a sense of Justice for children in conflict with the Law and prioritize children's best interests.<sup>10</sup>

Jack E. Bynum, in his book *Juvenile Delinquency a Sociological Approach*, stated, "Diversion is an attempt to divert, or channel out, youthful offenders from the juvenile justice system." According to Peter C Kratcoski, there are 3 (three) types of transfer programs that can be implemented, namely:<sup>11</sup>

- a. Implementation of social control (social control orientation), namely law enforcement officers hand over child offenders to responsibility and supervision or community observation, taking into account the approval or warning given. The perpetrator accepts responsibility for his actions and is not expected by the community to give the perpetrator a second chance.
- b. Social services by the community to actors (social service orientation), namely social services by the community by carrying out supervisory functions, intervening, and providing services for perpetrators and their families.
- c. Restorative Justice or Negotiations (balanced or restorative justice) protect the community, allow the perpetrator to be directly responsible to the victim and the community, and mutual agreement between the perpetrator, the victim, and the community. All relevant parties are brought together to reach an agreement on the perpetrators.

The basis of the concept of Diversion is to avoid the harmful effects of conventional criminal justice examinations on children, both adverse effects in the judicial process and negative effects of stigma (wrong label) on children's environment. Diversion uses the main principle of a non-penal or persuasive approach and provides an opportunity for someone to correct mistakes. Diversion is carried out to provide opportunities for lawbreakers, especially children, to become good people through non-formal channels by involving community resources.<sup>12</sup> Diversion provides an opportunity for children to change their behavior outside the trial without a trial process that can make the child's psychological and psychological development shaken and become traumatized because of the trial process.<sup>13</sup>

Not all crimes committed by children can be diverted. There are several conditions for a crime committed by children so that Diversion can be carried out, namely:<sup>14</sup>

- a. Child perpetrator who commits a crime for the first time;
- b. The child's age is relatively young;
- c. Implementation of the form of diversion programs imposed on children is approved by the parents/guardians, as well as the child concerned;
- d. The crime committed is a light or severe crime (in some instances);
- e. The child has pleaded guilty to committing a crime/crime;
- f. The community supports and does not object to the transfer of this examination;
- g. If the implementation of the diversion program fails, the child perpetrator is returned for formal examination.

In the Indonesian criminal justice system, the institutions of the Police, Prosecutors, Courts, and Corrections are carried out integrally. Every institution that carries out a process that Law has determined will affect the process carried out by other institutions. In resolving cases of children in conflict with the Law, the Public Prosecutor as part of the Prosecutor's Office becomes one of the

<sup>10</sup> Pangestika Rizki Utami, "Konsep Diversi dan *Restorative Justice* sebagai Pergeseran Tanggung Jawab Pidana Pada Sistem Peradilan Pidana Anak," 1,1 (2018): 95-106

<sup>11</sup> Dewi Setyowati, "Diversion in the Child Criminal Justice System as an Effort to Implement Restorative Justice", *ULREV Unram Law Review* 4,1 : 64-73.

<sup>12</sup> Azwad Rachmat Hambali, "Penerapan Diversi terhadap Anak yang Berhadapan dengan Hukum dalam Sistem Peradilan Pidana," 13, 1 (2019): 15-29.

<sup>13</sup> Results of an interview with Mr. Hendro Boyke, the Functional Prosecutor of the Purwokerto District Attorney. On July 6, 2020.

<sup>14</sup> Results of an interview with Mr. Hendro Boyke, the Functional Prosecutor of the Purwokerto District Attorney. On July 6, 2020.

series of implementations of the juvenile criminal justice system. The Public Prosecutor has an essential role in resolving cases of children in conflict with the Law, especially in diversion efforts. The Public Prosecutor in the diversion process acts as an active mediator who explains the causes and reasons for holding the diversion process to both parties.<sup>15</sup>

The implementation of Diversion is ideally carried out by the Public Prosecutor who has been determined based on the decision of the Attorney General or other officials appointed by the Attorney General, as stated in Article 41 of the SPPA Law, which reads:

- (1) Prosecution of children's cases shall be carried out by the Public Prosecutor, who is determined based on the decision of the Attorney General or other officials appointed by the Attorney General.
- (2) The requirements to be appointed as a Public Prosecutor, as referred to in paragraph (1), include:
  - a. Has experience as a public prosecutor;
  - b. Have interest, attention, dedication, and understanding of children's problems; and
  - c. Have attended technical training on Juvenile Justice.
- (3) If there is no Public Prosecutor who meets the requirements as referred to in paragraph (2), the task of prosecuting is carried out by the public prosecutor who carries out the task of prosecuting criminal acts committed by adults.

At the Purwokerto District Attorney, not all Public Prosecutors have met the criteria for prosecuting children's cases. Until July 2020, there were 25 (twenty-five) Public Prosecutors and only 1 (one) Public Prosecutor who had received juvenile Justice education. The Public Prosecutor who has conducted juvenile justice education is Boyke Hendro, S.H as the Functional Prosecutor. However, under the SPPA Law Article 41 paragraph (3), Public Prosecutors who have not carried out criminal justice education for children can still handle or prosecute and carry out a diversion process on children with a warrant from the Head of the Purwokerto District Attorney.

The process of implementing Diversion at the Purwokerto District Attorney is under the diversion guidelines contained in the Government Regulation of the Republic of Indonesia Number 65 of 2015 concerning Guidelines for Implementing Diversion and Handling of Children Under 12 (Twelve) Years Old, which is a follow-up to the regulation on Diversion in the Law. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. With the initial stage of appointing the Public Prosecutor with a warrant from the Head of the Purwokerto District Attorney and then the Public Prosecutor coordinating with investigators regarding the development of the child's case. After the case is entered into the prosecution process by handing over responsibility for the child and evidence from the investigator, the public prosecutor then checks the identity of the child and evidence within a period of 7 x 24 (seven times twenty-four) hours from the date of receipt of responsibility for the child. Children and evidence to immediately make diversion efforts by calling the child, the child's parents, and the victim and the victim's parents. After both parties agree to Diversion, the public prosecutor will determine the start date of the Diversion. The maximum diversion process is carried out within 30 (thirty) days from the date of the start of the Diversion. The diversion process involves the public prosecutor, children, their parents/guardians, victims and their parents/guardians, community advisors, and social workers. If desired by both parties, the implementation of Diversion may involve religious leaders, teachers, community leaders, and advocates.

During the diversion process, the Public Prosecutor as a mediator provides an opportunity for the parties to provide opinions, suggestions, and/or responses to:<sup>16</sup>

- a. The crime alleged against the child;
- b. Social report research results;
- c. Social report results;
- d. Forms and methods of solving cases.

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<sup>15</sup> Results of an interview with Mr. Hendro Boyke, the Functional Prosecutor of the Purwokerto District Attorney. On July 6, 2020.

<sup>16</sup> Sherty Yunia Safitri; Elwi Danil; Aria Zurnetti, "Problems With Implementing Diversity Efforts at the Prosecution Stage" (Case Study at the South Coast Prosecutor's Office), *International Journal of Multicultural and Multireligious Understanding*, 5, 6 (2018) : 243-249.

If an agreement is not reached during the diversion deliberation process, the public prosecutor makes a report and minutes of the diversion process, and the case is delegated to the court. And, if the diversion deliberation process meets the agreement, the public prosecutor submits the Diversion Agreement and the diversion report to the public prosecutor's direct supervisor. Within a maximum period of 3 (three) days, after the diversion agreement is reached, the Diversion Agreement shall be sent to the Head of the District Court to obtain a determination.

The Purwokerto District Prosecutor's Office itself, in the period 2014 to the third quarter of 2020 as a whole, handled 96 (ninety-six) cases of children, both cases that met the diversion requirements and did not meet the requirements for Diversion, of which 5 (five) cases were the diversion process was carried out, and 3 (three) cases were successfully resolved by Diversion. The details of the case file are as follows:

- a. In 2014, there were 4 (four) cases of children in conflict with the Law handled by the Purwokerto District Attorney's Office. In 2014 there were no cases of diversion attempts. The types of crimes are 4 (four) cases, namely, Persons and Objects 1 (one) case, and other General Crimes 3 (three) cases.
- b. In 2015, there were 11 (eleven) cases of children in conflict with the Law handled by the Purwokerto District Attorney. This year there were no cases of diversion attempts. The types of crimes are 11 (eleven) cases, namely, Persons and Objects 10 (ten) cases, and other General Crimes 1 (one) cases.
- c. In 2016, there were 9 (nine) cases of children in conflict with the Law handled by the Purwokerto District Attorney. This year there were no cases of diversion attempts. The types of crimes are 9 (nine) cases, namely, Persons and Objects 3 (three) cases, Katibum 2 (two) cases, and other General Crimes 4 (four) cases.
- d. In 2017, 22 (twenty-two) cases of children in conflict with the Law were handled by the Purwokerto District Attorney's Office. This year there were 2 cases where Diversion was attempted, Diversion successfully resolved 1 (one) case, and 1 (one) case was unsuccessful and continued in the judicial process. The case that the diversion attempt was successful was the theft case with the file number BP/01/I/2017. The types of crimes are 22 (twenty-two) cases, namely, Persons and Objects 17 (seventeen) cases, Katibum 1 (one) case, and other General Crimes 5 (five) cases.
- e. In 2018, there were 20 (twenty) cases of children in conflict with the Law handled by the Purwokerto District Attorney. This year there were no cases of diversion attempts. As for the types of crimes in the 20 (twenty) cases, namely, Persons and Objects 14 (fourteen) cases, Katibum 1 (one) case, and other General Crimes 5 (five) cases.
- f. In 2019, 22 (twenty-two) cases of children in conflict with the Law were handled by the Purwokerto District Attorney. This year there were 2 (two) cases where diversion efforts were carried out, diversion efforts successfully resolved 1 (one) case, and in 1 (one) other case, the diversion attempt was unsuccessful and continued in the judicial process. The case that successfully carried out diversion efforts was the case of persecution with the file number BP/277/XII/2018. The types of crimes are 22 (twenty-two) cases, namely, Persons and Objects 9 (nine) cases, Katibum 2 (two) cases, and other General Crimes 11 (eleven) cases.
- g. In 2020, there were 8 (eight) cases handled by the Purwokerto District Attorney's Office. This year there was 1 (one) case where Diversion was attempted and was successfully resolved by Diversion with the file number BP/38/III/2020. The types of crimes are 8 (eight) cases, namely, Persons and Objects 5 (five) cases and other General Crimes 3 (three) cases.

Of the 96 (ninety-six) cases of children who met the diversion requirements or not, there were 5 (five) cases where Diversion was carried out, and 3 (three) cases were successfully resolved by the diversion process so that cases of children who succeeded in reaching an amicable agreement were not continued to the case to court level. That is in contrast to what is aspired to in the Juvenile Criminal Justice System Act, which in the Act puts forward the concept of Restorative Justice by seeking a diversion process so that children are not sentenced to confinement and negative stigma in their environment when the sentence is over.

There are many cases where diversion efforts cannot be carried out because several conditions for Diversion are not met, such as cases that carry a threat of imprisonment for more

than seven years, child offenders who are recidivists, or crimes committed are particular crimes such as sexual intercourse or drugs. However, for cases where a diversion process can be carried out, the Public Prosecutor who acts as a mediator makes efforts so that the diversion process is successful, such as the Public Prosecutor who coordinates with investigators to obtain information related to the case or how the diversion process is carried out while being investigated. Then the Public Prosecutor met with the parties before the diversion attempt was made to find out more clearly the condition of the parties. That is done so that later when diversion efforts are made, the Public Prosecutor will already know very well about the case and can make maximum diversion efforts.

## **2. Constraints by the Public Prosecutor in settlement of Child Cases through Diversion at the Purwokerto District Attorney**

Constraints of the Purwokerto District Attorney's Office in carrying out diversion efforts, namely:

### **a. Regulations**

Since the enactment of the Juvenile Criminal Justice System Law Number 12 of 2012, the Public Prosecutor in implementing the Juvenile Criminal Justice System Act has been constrained in technical implementation because the implementation of the diversion process has not been regulated in detail. The government has just issued a rule regarding implementing Diversion at the prosecution level in 2015 in the form of Regulation of the Attorney General of the Republic of Indonesia Number PER-006/J.A/04/2015 concerning Guidelines for Implementing Diversion at the Prosecution Level so that the implementation of Diversion can continue smoothly.

### **b. The parties**

When carrying out the diversion process, the Public Prosecutor will summon the litigants to carry out the diversion process, but several parties are not cooperative in responding to the call to carry out Diversion. That usually happens to the victim's family, who has felt aggrieved both materially and immaterially, and hampers the diversion process due to requirements that require the presence of the victim and the perpetrator.

### **c. Economical factor**

This economic limitation is the reason for the inability of the child perpetrator or the perpetrator's family to fulfill the wishes of the victim in terms of compensation which is a condition for reaching a peace agreement in the diversion process.

### **d. Culture**

The culture inherent in the community regarding criminals must carry out the legal process in court and be given criminal sanctions no matter the perpetrator is still a minor has made understanding related to Diversion not easy to be accepted by the community. Information regarding the importance of diversion efforts for the benefit of children is still minimal in the community.

## **V. Conclusions**

1. The role of the Public Prosecutor in resolving child cases through Diversion at the Purwokerto District Attorney is to act as a mediator. If the Diversion does not reach an agreement, the Public Prosecutor shall make an official report declaring the diversion process failed and transfer the case to the District Court. On the other hand, if the Diversion is successful, the Public Prosecutor will make an official report and then submit it to the District Court for a determination
2. Constraints by the Public Prosecutor in resolving child cases through Diversion, namely, the unclear regulations regarding the guidelines for implementing diveri at the beginning of the enactment of Law Number 12 of 2012 concerning the Juvenile Criminal Justice System until 2015, the government issued Regulation of the Attorney General of the Republic of Indonesia Number PER-006 /JA/04/2015 Regarding Guidelines for Implementing Diversion at the Prosecution Level the victim is not cooperative, the perpetrator is unable to fulfill the request for compensation from the victim. The culture that develops in society that criminals must be tried and sentenced to prison regardless of whether the perpetrator is a child in the community minors hinders the implementation of the diversion process.

## VI. Suggestions

1. Until July 2020, only 1 (one) Public Prosecutor at the Purwokerto District Prosecutor's Office has taken juvenile justice education. It is expected that the Purwokerto District Attorney could include more Public Prosecutors in juvenile justice education. Therefore more Public Prosecutors have certification as Child Public prosecutors. The ideals of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System to promote Restorative Justice for children and resolve children's cases through the diversion process are realized to the fullest.
2. The culture that develops in the community related to Diversion and the lack of knowledge about Diversion is one of the factors for not implementing the diversion process. Therefore, on each side of the law enforcement officers educate the public regarding the importance of the diversion process for cases of children as perpetrators by conducting socialization.

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