

Legal Protection for Children Perpetrating the Crime of Theft Based on Restorative Justice

Sarip Hidayat¹, Gios Adhyakhsa², Iman Jalaludin Rifa'i³, Dadan Hermansyah⁴.

Email: sarip.hidayat@uniku.ac.id

Faculty of Law University Kuningan¹²³⁴

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Abstract

Arrangement opposite child with law as perpetrator follows criminal arranged in Constitution Number 12 of 2011 concerning System Justice Juvenile Crime which is umbrella law on protection against child with law until this moment, form and procedure implementation crime and Action against child arranged in Government Regulation Number 58 of 2022, This is a mandate from Article 71 paragraph (5) and Article 82 paragraph (4) of Constitution Number 12 of 2011 concerning the Child Crime Justice System. The research method used in this study is a normative juridical method with regulatory primary data applicable laws and secondary data books, reports, journals and interviews on parties related as primary data amplifier. Research results This is The goals of the juvenile justice system is For repairs behaviour child And give education as well as protection that the child needs , so the child when returning to environmental society can be accepted easily and can operate Again functions child, there is accompaniment law in the judicial process these and rights fulfillment child Already in accordance with applicable laws. Settlement process in a manner justice restorative and Diversion ie form mandatory solution attempted to oppose child with law Good as perpetrator following criminal, victim of criminal crime or witness following crime, then in the process of investigation party investigator must make an effort settlement in a manner restorative justice and Diversion, as well should be when prosecuted general as well as in mandatory Diversion courts attempted to child, in Diversion should be There is agreement between the parties for the resolution process in accordance with what is desired and obtain a sense of justice to child.

Keywords: *Children, Criminal, Restorative Justice*

Abstrak

Pengaturan mengenai anak yang berhadapan dengan hukum sebagai pelaku tindak pidana diatur dalam Undang-Undang Nomor 12 Tahun 2011 tentang Sistem Peradilan Pidana Anak yang merupakan payung hukum perlindungan anak yang berhadapan dengan hukum hingga saat ini, bentuk dan tata caranya. untuk melakukan tindak pidana dan perbuatan terhadap anak diatur dalam Peraturan Pemerintah Nomor 58 Tahun 2022, hal ini merupakan amanat Pasal 71 ayat (5) dan Pasal 82 ayat (4) Undang-Undang Nomor 12 Tahun 2011 tentang Sistem Peradilan Pidana Anak. Metode penelitian yang digunakan dalam penelitian ini adalah metode yuridis normatif dengan data primer dari peraturan perundang-undangan yang berlaku dan data sekunder dari buku, laporan, jurnal dan wawancara dengan pihak terkait sebagai penguat data primer. Hasil dari penelitian ini adalah tujuan dari sistem peradilan pidana anak adalah untuk memperbaiki tingkah laku anak dan memberikan pendidikan serta perlindungan terhadap apa yang dibutuhkan oleh anak, sehingga ketika anak kembali ke masyarakat dapat dengan mudah diterima dan dapat melaksanakan anaknya. berfungsi kembali, adanya bantuan hukum dalam proses peradilan dan pemenuhan hak-hak anak sesuai dengan peraturan perundang-undangan yang berlaku. Proses penyelesaian dengan menggunakan restorative justice dan diversifikasi merupakan salah satu bentuk penyelesaian yang harus diupayakan terhadap anak yang berhadapan dengan hukum, baik sebagai pelaku tindak pidana, korban tindak pidana maupun saksi tindak pidana, sehingga dalam proses penyidikan penyidik wajib mencari penyelesaian dengan menggunakan keadilan restoratif dan juga diversifikasi. Sebaiknya di Kejaksaan atau di pengadilan, upaya diversifikasi harus dilakukan terhadap anak. Dalam diversifikasi harus ada kesepakatan antar para pihak agar proses penyelesaiannya sesuai dengan yang diinginkan dan tercapainya rasa keadilan terhadap anak.

Kata Kunci : *Anak, Pidana, Restorative Justice*

A. Introduction

Child protection regulations are regulated in Law Number 35 of 2014, an amendment to Law Number 23 of 2002 concerning Child Protection, children are the next generation who have the potential to change the country Indonesia become Country Which more progress , in this case children often Also called as generation successor nation in day coming Which role important in determine history nation And Country as well as life something nation in period Which will coming. However on Basically, children's mental development is not the same as that of adults that's very educational role as forming children's character.¹ So it is very necessary for child protection legislation which can be an implementation solution when children are in conflict with the law.

Children in conflict with the law are children aged 12 to 18 years Now start There are many cases where children are the perpetrators of criminal acts time over time, which starts from relationships that lack *social control* from parents or influence environment. Perpetrators of criminal acts who sometimes done by child underage sometimes without them realizing that their behavior constitutes acts against the law, where the behavior they carry out or is a frequent example of they Look from person mature. Which then on Finally deed oppose the law carried out by the minor continues in the case judiciary, so that sometimes in resolving judicial cases minors are likely to be sentenced. If the child Having finished serving his sentence it will definitely be difficult to improve his outlook public. Where should child as successor generation nation Which born to be generation that can advance the nation This.²

Child protection for children who commit criminal acts is an effort made by the state to provide protection against children involved in the criminal justice system.³ Children are individuals who prone to and still in time development Which need protection special so that can grow and develop well. In Indonesia, protection of children who are in conflict with the law who commit criminal acts regulated in Law Number 11 of 2012 concerning the Judicial System Child⁴. Constitution This load Principles that prioritize kindness towards children who commit criminal acts in process of resolving children's cases Which dealing with the law,

¹ Ridwan Arifin Juliana, Ria, "Children and crime (causal factors and legal protection).," Selat 6, no. 2 (2019): 225–234.

² Afrian Maulana Syaputra, "Legal Protection for Children as Perpetrators of the Crime of Theft (Case Study Decision Number 2/Pid. Sus–Anak/2022 PN. Kds)," *Diss. Sultan Agung Islamic University (Indonesia)*, 2022.

³ Azwad Rachmat. Hambali, "Implementation of Diversion for Children in Conflict with the Law in the Criminal Justice System (Diversion for Children in Conflict with the Laws in the Criminal Justice System).," *Journal of Legal Sciences* I, no. 13 (2019): 15–30.

⁴ Law Number 11 of 2012 concerning the Juvenile Justice System .

including the principle of the benefit of the child, the principle of separation between children and adults who have committed criminal acts, the principle of reintegration social, and the principle of equality before the law.

Child protection for children who commit criminal acts aims For give protection and the best alternative for children Which the best to rights child, as well as giving rehabilitation And reintegration social so that child the can Return role as a member useful society.⁵ Implementation of protection child to child Which do follow criminal international consensus on children's rights, namely the Convention on Rights Child year 1989 Which adopted by United Nations. Convention This arrange rights child in a way comprehensive, including right child Which face to facewith the law, and is the basis for countries to protect children from follow criminal and give that protection the best for children.

Child protection is an action that aims to protect andpay attention to children's rights in their lives, including in the legal context. In this context, the child does it the crime of theft is also included as children who need protection. Children who commit criminal acts Theft is usually done by children who are immature or underage. In matter This, child Which do follow criminal theft own risk Which morelikely to become victims of various acts of physical and psychological violence, as well discrimination from society and legal institutions. For this reason, child protection is do follow criminal theft must done with notice right-his rights as child, for example right on education, maintenance health, And protection from discrimination. This protection must also be carried out with notice interest child For can repair behavior And period the front.

Basically, legal protection does not differentiate between children who commit criminal acts . Indonesia as a legal state based on Pancasila must provide legal protection to its citizens because this legal protection will give rise to recognition and protection of human rights in their form as individual and social creatures within a unitary state that upholds the spirit of family in order to achieve common prosperity ⁶. In this case, the government and legal institutions must take an approach Which focused on rehabilitation And reintegration child to in public, No onlypunish child the in a way hard. Matter This done with give education and training, as well as providing psychological and social support to children who commit

⁵ Liza Deshaini, "THE ROLE OF THE COMMUNITY IN IMPLEMENTING CHILD PROTECTION ACCORDING TO THE CHILD PROTECTION LAW.," *Discipline: Academic Community Magazine, College of Law, Youth Pledge* , 2022, 69.

⁶ S Hidayat, "Correlation of the Crime of Domestic Violence According to Law Number 23 of 2004 with the Concept of Nusyuz and Dispute Resolution," *Logic: Kuningan University Research Journal* 13, no. september 2004 (2022): 181–91,

the crime of theft, so that they can improve their behavior And contribute positively to society.

Apart from that, it also protects children who commit criminal acts of theft must done with notice well-being family And environment placethe child grows and develops. The government and society must work together together to create an environment conducive to children's growth and development, with provide access to education, health and decent work. With thereby, protection child Which do follow criminal theft is something matter Which important done For guard rights child And give chance for child to grow and develop effectively positive.

Based on the background of the problem description above, it can be concluded that the main problem to be studied in this research is the legal protection of children as perpetrators of criminal acts of theft based on restorative justice .

- 1) What are the regulations for legal protection for children who commit crimes of theft?
- 2) How is restorative justice implemented for children as perpetrators of criminal acts?

In the *Justiciabellen Journal* written by Irvan Rizqian ⁷, with a discussion entitled legal protection efforts for children as victims of criminal acts of sexual violence, studied according to Indonesian criminal law, the discussion focuses on efforts to overcome criminal acts of sexual violence against children, studied according to Indonesian criminal law, namely the role of parents. , plays an important role in protecting children from the threat of sexual violence, parents' involvement in the process of handling sexual violence experienced by their children, both legal treatment and psychological recovery, psychological services for children and parents, and sanctions for acts of sexual violence. the punishment is appropriate and must have a deterrent effect. By using a juridical approach research method, using the rules of legislation and the problem being studied.

In the *Court Journal Journal of Islamic Law Studies* written by Sarip Hidayat, Beben Muhammad Bachtiar, Anthon Fathanudien, Bias Lintang Dialog, Erga Yuhandra ⁸, with a discussion entitled protection of child victims of criminal acts of incest in Aceh Qanun Number 6 concerning Jinayat Law, the results of the discussion explain that incest is sexual which is done by people who are in a blood relationship and results in them not being able to marry the person who does it because they are eternal mahram or people cannot be married, so that if a

⁷ Irvan Rizqian, "Legal Protection Efforts for Children as Victims of Crimes of Sexual Violence Examined According to Indonesian Criminal Law," *Journal Justiciabellen (Jj)* 1, no. 1 (2021): 51,

⁸ Sarip Hidayat, Beben Muhammad Bachtiar, and Anthon Fathanudien, "PROTECTION OF CHILD VICTIMS OF THE CRIME OF INCEST IN ACEH QANUN NUMBER 6 OF 2014 CONCERNING JINAYAT LAW" 8, no. 1 (2014): 21–29.

child is born from incest, they only have a blood relationship to the mother. The solution to this problem is through *litigation* or *restorative justice* .

In the *Saraswati Law Journal* written by Putu Eka Trisna Dewi⁹. with the title law enforcement against *recidivists* of criminal acts of theft in the juvenile criminal justice system in the results of his research, it explains that behavioral deviations in children are something that is vulnerable to occurring because of the child's unstable soul. Children who are in conflict with the law can be punished if they are proven to have committed a criminal act. In this research, using literature study methods and a legislative approach, the aim of criminal punishment is not merely to take revenge, but to provide guidance and protection. This provision is also applied to the punishment of children, in fact the punishment of children is given more attention considering the characteristics of the child. Limitations on the use of criminal law for children can be seen from the diversion regulations for children who are in conflict with the law. However, for repeated or recidivist crimes, diversion against children cannot be carried out .

So the author in this research focuses on solving the legal protection of children as perpetrators of criminal acts of theft based on restorative justice, so that the solution is through kinship so that the role of parents, the community environment and law enforcers can build or be accepted back into society. The child can carry out the child's functions in accordance with the regulations. legislation.

B. Research methods

In this research, the method used is normative juridical, using a descriptive analysis approach with this method the author tries to reveal the laws and regulations relating to legal theories relating to the object of research. Primary data is related laws and secondary data are books, scientific works and reports and interviews with related parties, as well as laws in their implementation in society.

C. Results and Discussion

1. Regulations on Legal Protection for Children as Perpetrators of the Crime of Theft

According to Fitzgerald, as quoted by Satjipto Raharjo, the beginning of the emergence of the theory of legal protection came from natural law theory or the school of natural law. This school was pioneered by Plato, Aristotle (Plato's student), and Zeno (founder

⁹ Putu EK Dewi, "Law Enforcement against Recidivist Crimes of Theft in the Juvenile Criminal Justice System," *Saraswati Law Journal (JHS)* 03, no. 02 (2021).

of the Stoic school). According to the school of natural law, it is stated that law originates from God who is universal and eternal, and that law and morals cannot be separated. Adherents of this school view that law and morals are internal and external reflections and rules of human life which are realized through law and morals ¹⁰.

Legal protection for children as perpetrators of criminal acts of theft can be regulated in several laws in Indonesia. One of which is Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA). Constitution This arrange about protection law to child involved in the criminal justice system. According to Article 1 number 1 of the SPPA Law, A child is someone who is not yet 18 years old. The child who committed the act criminal theft can processed through system Justice criminal child Which differentwith the ordinary criminal justice system . The goals of the juvenile criminal justice system is For repair behavior child And give education as well as protection what children need.

Protection law to child perpetrator follow criminal theft arrangedin Chapter 78 Act SPPA. Chapter This state that in take decisionlaw to child, judge must consider factors Which influence behavior child, including factor age, development physique And mental, And environment family And social child. Besides That, Chapter 81 Act SPPA Also regulates children's rights in the juvenile criminal justice system. Children involvedIn the criminal justice system, children have the right to receive treatment Which The same with child other without discrimination, right For represented by advisor law, right For heard his opinion, right For get special protection and rehabilitation, as well as the right to be separated from adults Which detained in the criminal justice process.

Detention carried out by the police must still pay attention to children's rights and provide different treatment, such as children being detained in special children's detention places, examinations are carried out in a family atmosphere and there is no shouting or beatings carried out against children. When detained, children are encouraged to be accompanied by their parents or the Father ¹¹. In this case, children who are in conflict with the law must have their rights fulfilled so that they can look for alternative dispute resolution processes for children who are perpetrators of criminal acts.

In side That, in process Justice criminal child, No permitteduse punishment dead or punishment lifetime life without liberation conditional, as regulated in Article 82 of the SPPA

¹⁰ Satjipto Raharjo, *Legal Studies*, 7th ed. (Bandung: , PT. Citra Aditya Bakti, 2000).

¹¹ Laila Dyah Rachmawati, "Reconceptualization of Legal Protection for Children as Perpetrators of Narcotics Crimes in the Juvenile Criminal Justice System," *Syariati: Journal of Al-Qur'an and Legal Studies* 7, no. 1 (2021): 117–28.

Law. Children involved in in the criminal justice system, children are also not allowed to be sentenced imprisonment or detention for more than 10 years. In the case of the crime of theft carried out by children, apart from through the juvenile criminal justice system, there are also efforts Other things that can be done to improve children's behavior and prevent it commit criminal acts of theft in the future. One of them is with provide education and training about the rights and obligations as citizens good country and good moral values. In this case, the role of the family, public, And institution education very important in give understanding and proper training for children so that they can grow into good individuals responsible answer And No do follow criminal theft or follow criminal other in Century front. Form protection law For child as perpetrator follow criminal theft Which done guided by Constitution No. 11 Year 2012 about Juvenile Criminal Justice System, the protection is under the auspices of a units Protection Woman and Children or normal abbreviated with Units PPA.

Units PPA in carry out protection service For child And Woman form units PPA. Based on Regulation Head Police Country Republic of Indonesia No. Pol: 10 of 2007 concerning Organization and Work Procedures Women and Children Service Unit (PPA Unit) Article 1 Paragraph (1) PPA unit is unit tasked with providing services, in the form of protection against Woman And child Which become victim crime And enforcement law to the culprit. Before the formation of the PPA Unit, services for women and children Children were previously handled in the Special Examination Room (RPK) which was established in 1999. Then the RPK was renamed the Women and Children Services Unit (PPA Unit) based on National Police Chief Regulation no. Pol: 10 of 2007 This change aims to handle cases related to women and children can be handled more optimally and also protected against the rights of women and children can be fulfilled .¹² However, not only PPA units not only to protect children as victims of crime but also to protect The rights of children as perpetrators of criminal acts are no exception to acts theft crime. There are several forms of legal protection that are carried out in handling cases of criminal acts of theft committed by children, namely as following :

a. Fast case resolution process

Wrong One protection law for child as follow criminal theft at the Kuningan Police is to resolve cases quickly, matter the in accordance on Chapter 64 Protection Special for Child Which face to face with law need exists avoidance from arrest, detention or imprisonment, except as

¹² RA Yudha, "Juridical Review of the Establishment of the Women and Children Service Unit (UNIT PPA) within the Indonesian National Police" (Doctoral dissertation, Kalimantan Islamic University MAB), 2021.

a last resort and within a limited time most short. In Kuningan Police Alone solution case on child as the perpetrator of the crime of theft, he has implemented an accelerated process case. Which faced child, para investigator must finish files results investigation from case theft. Which done by child. For he did delegation (P21) during in period 15 day. Already must finished, matter. This classified very short. Because solution case on person mature can take months. During this time period investigators must maximize the completion of investigation results so that they have legal status the child has legal certainty. Speed up the resolution of this case carried out so that the child's psychological and mental well-being is maintained, and also so that the child obtain his rights. Which must they got it. Also remember child is an individual whose rights must be protected.

- b. Investigators who are tasked with carrying out investigations into children as perpetrators follow criminal child is a special child investigator .

Child investigators must meet the requirements to have experience as investigators of criminal acts committed by adults and have interest, attention, dedication and understanding of children's problems. Remembering deeply Chapter 1 Constitution Number 11 year 2012 About System Justice child that investigators who handle children's cases must be child investigators. In implementation process case theft Which done by child Kuningan Police deploy para investigator child Which specifically serving in the PPA Unit, here there are 4 child investigator personnel, namely 3 (three) women and 1 (one) manman.

- c. Diversion

Efforts to protect children as perpetrators of criminal acts of Unit theft PPA Also carry out system diversion. Diversion is form protection for children as perpetrators of criminal acts of theft is mandatory or must be implemented because this is very much contained in the statutory regulations, this has been regulated in Article 7 paragraph (1) that in level of investigation, prosecution and examination of children's cases in court country must attempted diversion. This is the best alternative for children who commit criminal acts, By therefore consistent And always apply diversion in every case of criminal theft committed child. Model diversion intended For avoid And distance child from process Justice in a way formal so that can avoid negative stigma to child Which conflicted with law And expected child can return to in environment social in a way reasonable. Implementation diversion background desire For avoid effect negative, specifically to soul and development child Which potential happen when resolved process the crime done through system Justice criminal. In The implementation of the diversion process involves child investigators, DP5A, as well father. The implementation of diversion in the Police is a maximum of 30 (thirty) days (Chapter 29

Verse (2) System Act Criminal Justice Child)¹³

Implementation of law criminal to child perpetrator follow theft offense done in accordance with Constitution No. 11 Year 2012 about System Justice Criminal Child. According to Constitution the, child perpetrator follow criminal treated in a way different with person other general in process Justice criminal. Children perpetrator follow criminal theft can sentenced penalty criminal form criminal prison, Apart penalty criminal, child perpetrator follow criminal theft Also can worn action recovery And coaching.

Action recovery can form restitution (return goods Which stolen), replacement loss, or request Sorry to victim. Whereas action coaching done For help child perpetrators of criminal acts achieve better behavioral changes. In implementation law criminal to child perpetrator follow criminal theft, need noticed principles coaching And protection child in accordance with Constitution Child protection. This includes principles such as non-discrimination, no excessive, and does not harm children in a way physique, psychological, or social .

The application of criminal law to children who commit crimes of theft is regulated in Law no. 11 of 2012 concerning the Juvenile Criminal Justice System. The following is a discussion of how criminal law is applied to children perpetrator criminal act theft .

Procedures for implementing criminal law against children who commit criminal acts of theft are regulated in Law no. 11 of 2012 concerning the Juvenile Criminal Justice System. The following is a discussion of how criminal law is applied to children perpetrator criminal act theft :

- 1) Consideration General in handle child perpetrator follow criminal theft, need considered a number of things, namely :
 - a. Age Children as perpetrators of criminal acts are an important factor in determining how to handle the case. Article 4 of Law no. 11 of 2012 states that child is person Which Not yet aged 18 year. Child Which aged in lower 12 years are considered legally incompetent and cannot be punished. Children aged between 12 years and 14 years can be punished if proven guilty of committing a criminal act with sufficient awareness. Children aged over 14 years to 18 years can be punished like anyone adults, but with adjustments based on the level of physical development, mental, and psychology .

¹³ Eko Wahyudi, "Implementation of Legal Protection for Children as Perpetrators of the Crime of Theft in the Investigation Process," *SUPREMASI: Legal Journal* 4, no. 1 (2021): 61–76.

- b. Factors that cause criminal acts in cases of theft _ _done by child, need considered factors of children as perpetrators of criminal acts become the cause. A number of factor the between other condition family, social environment, And internal factors of the child such as circumstances emotions and psychological .¹⁴

2) Arrest and Detention Process

In Article 84 of Law no. 11 of 2012 states that the arrest of children who commit criminal acts must be treated in a humane, appropriate manner with children's rights, and does not harm children. Arrests may be made by officer police after obtain letter order arrest from judge. After arrested, child perpetrator given right For obtain legal aid, get inspection health, And done inspection to ability his mentality.

If there is a need done detention of children as perpetrators of criminal acts, so detention to child perpetrator the crime of theft can only be committed for a maximum of 20 days, and only can be extended One time with maximum 20 day Again. After That, child perpetrators of criminal acts must immediately released or examined and tried.¹⁵

3) Juvenile Justice Process

implementation process Justice, children who are perpetrators of criminal acts perpetrator follow criminal theft can undergo process Justice criminal child , depending on the age level and the decision of the Panel of Judges . If the perpetrator's child commits an act criminal theft aged in lower 12 year, so child the No can tried in the criminal justice process for children , the solution is restorative justice. If the child is aged between 12 years up to 14 years old, children can be tried in the Juvenile Criminal Court.

2. Factors Inhibiting the Resolution of Children as Perpetrators of Crime through Restorative Justice

With the birth of U U No. 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) provides a different approach from the previous Law , namely Law No. 3 of 1997 concerning Juvenile Justice , in the SPPA Law no. 11 of 2012, the approach is to prevent children from being subjected to the basic sentence of imprisonment. Criminal acts committed by children cannot be equated with criminal acts committed by other adults or what are often

¹⁴ Kadir Sulingo Djauhari, Muhammad Syarif Hidayatullah H., "The Role of Investigators in Handling Cases of Children as Criminals (Case Study at the Gorontalo Regional Police's Ditreskrim)," *VOICE JUSTISIA: Journal of Law and Justice* 5, no. 2 (2021): 73–103.

¹⁵ Fiska Ananda, "Implementation of Diversion as a Legal Protection Effort for Children Perpetrating Crimes," *Daulat Hukum* 1, no. 1 (2018): 13.

called ordinary criminal acts.

Head of the Human Resources Development Agency of the Ministry of Law and Human Rights , Harkristuti Harkrisnowo , said there were several changing views of the juvenile justice system . Starting from the philosophy of the juvenile criminal justice system, the scope of children, the age of criminal responsibility for children, the elimination of the categories of criminal children, state children, and civil children, the *Restorative Justice approach* , the obligation of the Diversion process at every level , the affirmation of children's rights in the judicial process, and the limitation of confiscation efforts independence as *the measure of last resort* .

So that children no longer languish in prison for committing criminal acts, a *restorative justice approach* must be put forward , because the customary law approach in Indonesia is closely related to the *restorative justice paradigm*.¹⁶ So that cases of children who are in conflict with the law are not always resolved through litigation but can be resolved through non-litigation. This is a process that can foster a sense of justice for parties who are in conflict with the law.

Legal protection for children as perpetrators of criminal acts of theft own a number of constraint Which need noticed. Following is a number of constraint the :

- a. Conflict between children's rights and public interests One of the obstacles in legal protection for children as perpetrators of criminal acts of theft is a conflict between children's rights and the public interest. As perpetrators of criminal acts, children have the right to receive protection the same laws as adults, but on the other hand, interests The public must be prioritized in efforts to prevent and take action criminal .
- b. Limitations in system Justice child in Indonesia still has limitations in terms of resources and facilities adequate to provide optimal legal protection for children as perpetrators of criminal acts. Apart from that, there are still shortcomings understanding And Skills from para professional in law enforcement field, especially law enforcement and social workers and detention centers for children who face case child as perpetrator criminal act.
- c. Limited access to education and rehabilitation of children perpetrators of criminal acts of theft need to obtain adequate access to education And rehabilitation so that they can repair self Andreturn to public as inhabitant Which productive. However, limited

¹⁶ Harkristuti Harkrisnowo, "Restorative Justice is Fairer for Children Protects the rights of children in conflict with the law" (Jakarta, 2015), [https://www. Hukumonline.com/berita/a/irestorative-justice-i-more-adil- create-child-lt55f3bdc00317a](https://www.Hukumonline.com/berita/a/irestorative-justice-i-more-adil- create-child-lt55f3bdc00317a).

Access to adequate education and rehabilitation is an obstacle in providing optimal legal protection for children as perpetrator criminal act theft .

- d. Reliance on criminal action Legal protection against Children as perpetrators of criminal acts of theft are still very dependent on action punishment, like prison or action punishment other. Whereas, action punishment Which excessive can impact bad onchild development and does not provide a guarantee that the child will become citizens again productive and obey the law.
- e. Protection of children's rights in children dealing with the law, legal processes, children's rights as perpetrator follow criminal Also must noticed. Child still own right Whichthe same as adults, including the right to self-defense and the rights inherent in other children, Oleh Because That, process law to child must considering the child's rights and interests for the future, this is so that when the child returns to society, he or she does not repeat criminal acts that could harm the child's future.
- f. Lack of public awareness, there are still many people who don't realize how important legal protection is for children, including when child become perpetrator follow criminals, society often time takeown actions without thinking about the long-term impact on the child so that the child does not receive justice from the criminal act he committed. It is very important to understand that it is sufficient to resolve child crimes in an amicable manner so that there is no retaliatory behavior in the future.

Restorative justice is an excellent method for resolving cases related to children. This aims to maintain the growth and development of children so that children do not encounter the law again, either as perpetrators of criminal acts, victims of criminal acts or witnesses of criminal acts, and this method is to prevent this from happening. revenge.

D. Conclusion

protection for children who are in conflict with the law as perpetrators of criminal acts of theft can be regulated in several laws in Indonesia. One of which is Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA). Constitution This arrange about protection law to child involved in the criminal justice system. According to Article 1 number 1 of the SPPA Law, A child is someone who is not yet 18 years old. The child who committed the act criminal theft can processed through system Justice criminal child Which differentwith the ordinary criminal justice system . And it is a special court, the aim of the juvenile criminal justice system is For repair behavior child And give education as well as protection that the child needs , and that there is legal assistance in the judicial process and that the child's rights are fulfilled in accordance with applicable legislation. The resolution

process using restorative justice and diversion is a form of resolution that must be sought for children who are in conflict with the law, whether as perpetrators of criminal acts, victims of criminal acts or witnesses of criminal acts, so in the investigation process the investigator is obliged to seek resolution using restorative justice and diversion, as well. It is best if in the public prosecutor's office or in court, diversion must be attempted against children, in diversion there must be an agreement between the parties so that the resolution process is in accordance with what is desired and achieves a sense of justice.

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